

Annual Report
ten-year retrospective

1990

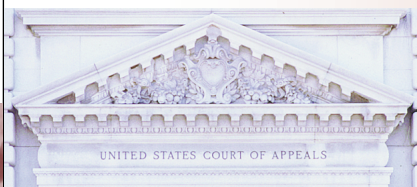
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United States Courts

Ninth Circuit

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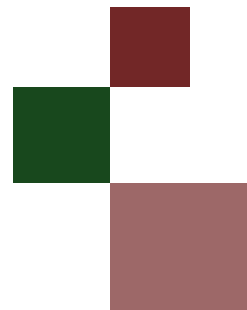
front row: Sidney R. Thomas, Betty B. Fletcher, Alex Kozinski, Mary M. Schroeder, Barry G. Silverman, David A. Ezra
back row: John S. Rhoades, Sr., Michael R. Hogan, Elizabeth D. Laporte, Donald MacDonald, Judith Keep, James K. Singleton
missing: Pamela Ann Rymer

The Judicial Council of the Ninth Circuit

Mission Statement

United States Courts—Ninth Circuit

The Mission of the Judicial Council of the Ninth Circuit is to support the effective and expeditious administration of justice and the safeguarding of fairness in the administration of the courts within the circuit. To do so, it will promote the fair and prompt resolution of disputes, ensure the effective discharge of court business, prevent any form of invidious discrimination, and enhance public understanding of, and confidence in, the judiciary.



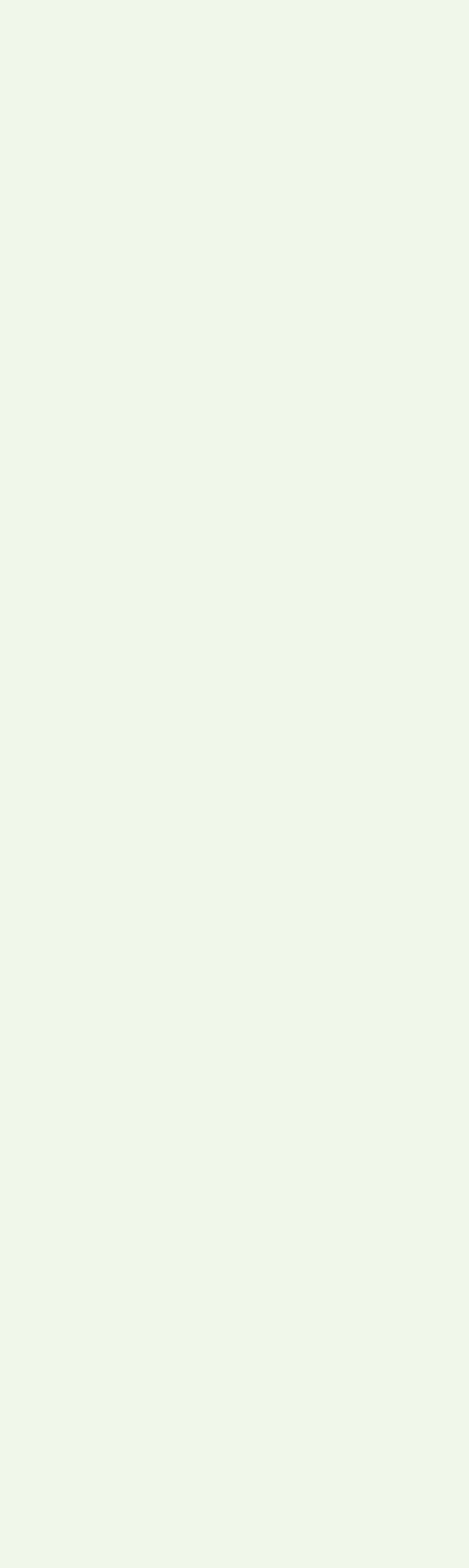


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Foreword

Chief Judge Mary M. Schroeder



Welcome to the year 2000 Annual Report of the United States Courts for the Ninth Circuit. Inside you will find a comprehensive presentation of statistics documenting the work of our courts over the last year. In addition, to mark the end of the century and turning of the millennium, we have expanded this year's report to include a section looking back at the circuit over the past decade. I hope you will take time to read some of these articles, which briefly discuss major issues and trends that have helped shape the federal courts of the western states.

This past year has been one of major challenge and achievement for the Ninth Circuit, which remains the largest and busiest of the nation's 13 federal circuits. In the year 2000, our district courts accounted for 18.5 percent of all new civil and criminal cases filed in the federal court system. Our bankruptcy courts were the venue for 20 percent of all new bankruptcy litigation. And our Court of Appeals dealt with 17.3 percent of all new federal appeals.

During the year, the Court of Appeals heard almost 9,600 cases. This number represents a 1 percent decline from the prior year, which bucked a 20-year growth trend in which the caseload increased 42 percent. The greatest number of appeals, 24 percent, came from the circuit's most populous district, Central California. Private civil appeals accounted for the largest percentage of cases, while prisoner petitions made up a surprising 19 percent.

The caseload was borne by an active appellate bench of 25 judges (three of whom came onto the bench at mid-year). Their efforts were augmented by 21 senior circuit judges, who carried a workload equivalent to


almost 10 additional active judges. A number of district court judges sitting by designation also heard appeals.

For the year, 891 decisions, or 9.7 percent of the total caseload, were appealed to the Supreme Court of the United States. The Supreme Court granted certiorari in only 17 cases, reversing 12 and affirming five. The 12 reversals equate to less than 0.01% of the caseload, so that decisions by the Court of Appeals remained the law of the land in 99.9 percent of the cases it heard.

In our district and bankruptcy courts, the theme continues to be doing more with less, sometimes drastically less.

District courts this past year handled almost 60,000 cases. Drug offenses outnumbered all other categories. Just two of our 15 districts, Southern California and Arizona, whose border courts are coping with a wave of drug smuggling and illegal immigration cases, accounted for 38 percent of all criminal cases in the circuit. These two districts also have been laboring under a severe shortage of judges.

Arizona received some relief this year, when Congress authorized three addi-



Our diversity also provides strength and innovation to find solutions to complex problems and changing circumstances.

tional judgeships. However, Southern California, where caseloads justified eight new judgeships (three temporary and five permanent), received no relief, prompting the chief district judge there to declare a judicial emergency. Additional judges also were sought but not received by the districts of Central California, Northern California, Nevada, Oregon and Western Washington.

In the absence of new judges, many district courts continue to rely heavily on senior judges to keep up with growing caseloads. Across the circuit, senior judges conducted more than 1,700 trials and terminated more than 5,000 civil cases and 3,000 criminal cases. Senior judges carried a workload equivalent to that of 25 active district court judges.

Overloaded courts also have been assisted by judges from other districts within the circuit, whose caseloads have not risen as dramatically. The services provided by these active district judges, whose districts are bound by the same circuit law, has been extremely valuable. Their willingness to sit on cases outside their districts is greatly appreciated and illustrates one of the benefits of a large circuit.

Also of great assistance were magistrate judges, whose contributions to the district courts continue to grow. Through consents, the total number of civil cases terminated by magistrate judges increased by 23 percent. Many of these cases involved social security appeals. Arizona magistrate judges recorded the biggest increase in civil cases terminated, an astounding jump of 121 percent!

In the bankruptcy courts, the Ninth Circuit saw a 14 percent decline in filings with the biggest decrease in

Chapter 7 filings. While the decline may be short-lived (based on early indications from fiscal year 2001), bankruptcy courts began making plans for workforce reductions in several districts, including Central California, Northern California and Arizona.

Despite the prospects of fewer staff, our bankruptcy courts continued to lead the nation in their use of technology to improve services and general case management. The Central District of California, for example, has advanced from 87th to 2nd in the country in terms of how quickly its cases are processed. Other bankruptcy courts, such as the District of Montana, also are relying more and more on video conferencing to conduct hearings and conferences.

To touch briefly on other matters, during the year, we saw new courthouses open in Las Vegas, Tucson, Guam and Riverside, east of Los Angeles. The courthouse under construction in Phoenix was substantially completed, while site selection, planning and design work continued for new courthouses in Seattle, Fresno and Los Angeles.

Our technology infrastructure continues to grow, improving access to the courts and court-related information via the Internet and Intranet. The Pacernet system, which allows legal professionals to access court documents over the Internet, is being widely used. And several of our bankruptcy and district courts are involved in the early rollout of case management/electronic case filing (CM/ECF), which holds the promise for even greater access to the courts.

Our Judicial Council has established a new community outreach committee to explain the work of the courts to

the public in general and the media in particular. Another of our committees is focused on the physical and mental well being of judges and has now made a counselor available by phone to judges, their spouses and staff. This is a first among federal courts in the country.

In closing, I want to express pride in the great physical and social diversity that exists within the Ninth Circuit. Our boundaries stretch from the frigid Alaskan tundra to the searing Arizona desert to the balmy beaches of Hawaii. We take in heavily urbanized areas, including the second largest city in the United States, and remote, largely undeveloped areas, such as the pristine forests of Idaho and Montana. Our populace reflects a rainbow of colors, languages and cultures. Our industries run the gamut, from high technology centers in California's Silicon Valley to traditional fishing and trapping in the Pacific Northwest.

Needless to say, these differences generate conflict among competing interests. But such diversity also provides strength and innovation to find solutions to complex problems and changing circumstances. I am confident that our federal courts will reflect these qualities, now and in the future.

The Ninth Circuit: The Largest Judicial Circuit in the United States

The Ninth Circuit courts include the court of appeals, district and bankruptcy courts, and the agencies connected administratively to them. The region of the Ninth Circuit includes the Districts of Alaska, Arizona, Central California, Eastern California, Northern California, Southern California, Hawaii, Idaho, Montana, Nevada, Oregon, Eastern Washington, and Western Washington, as well as the districts encompassing the United States territory of Guam and the commonwealth of the Northern Mariana Islands. Established in 1891, the Ninth Circuit began the development of a judicial system for the far western states, which, after a relatively meager start, now handles the largest judicial caseload of any circuit in the nation. It also remains the largest geographical circuit of the 13 circuits in the country.



The circuit and district judges are Article III judges, which refers to the article in the United States Constitution. They are appointed for life by the President of the United States and confirmed by Congress. The court of appeals has been authorized 28 judgeships for many years, but by the end of 2000 the court was comprised of only 25 active circuit judges, leaving a remaining three judicial vacancies. Senior judges, judges who retain a portion of their workload upon retirement, when meeting specific service and age requirements, play a large role in the Ninth Circuit Court of Appeals, as witnessed in the court having 20 senior circuit judges in 2000. At the end of the year, the district courts had 91 active district judges, with 15 vacant judgeships. There were 55 senior district judges. One appellate judge and seven district judges took senior status in 2000.

In addition to these Article III judges, the Ninth Circuit has a number of

Article I judges. These judges are appointed by the judiciary and hold their positions for a set number of years, after which they may be reappointed. Bankruptcy judges are appointed for 14 years, while magistrate judges hold their positions for eight years. During 2000, there were 65 bankruptcy judges, including eight recalled bankruptcy judges, 81 full-time magistrate judges, 18 part-time magistrate judges, and five recalled magistrate judges who provided services in the Ninth Circuit. Recalled judges are Article I bankruptcy or magistrate judges who have retired but continue working as a result of the courts' heavy caseload.

Overall, the Ninth Circuit courts experienced increased caseloads during the 2000 calendar year. Statistics in this report cover calendar year 2000, from January 1 to December 31, unless otherwise noted. Fiscal year 2000 statistics are from October 1, 1999 through September 31, 2000.

The Judicial Council and Administration of the Ninth Circuit

The Judicial Council for the Ninth Circuit serves as a “judicial board of directors” for the Ninth Circuit, providing guidance and leadership. The council possesses statutory authority to “make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit,” [28 U.S.C. ‘332(d)(1)]. The nine-member Judicial Council for the Ninth Circuit meets quarterly to review and determine policy and administrative issues facing the courts, occasionally arranging additional meetings to address specific concerns.

The Judicial Council initiates needed policies and programs, coordinates council initiatives, and reviews complaints of judicial misconduct. The Council performs the responsibilities delegated by the Judicial Conference of the United States, such as administering policies and procedures for senior judge staffing and pay. Similar to its national counterpart, the Judicial Conference of the United States, the Judicial Council for the Ninth Circuit operates through the work of its committees. The Office of the Circuit Executive is staff to the Judicial Council and supports its administrative responsibilities.

By statute, the circuit executive is the administrative assistant to the chief judge of the circuit and is secretary to the Judicial Council. The circuit executive is also responsible for non-adjudicative functions of the court of appeals; however, in the Ninth Circuit, the Judicial Council has delegated this responsibility to the clerk of court. In support of the chief judge and the Judicial Council, the circuit executive and his staff assist in identifying circuit needs, conducting studies, proactively developing and implementing policies, providing training, public information,

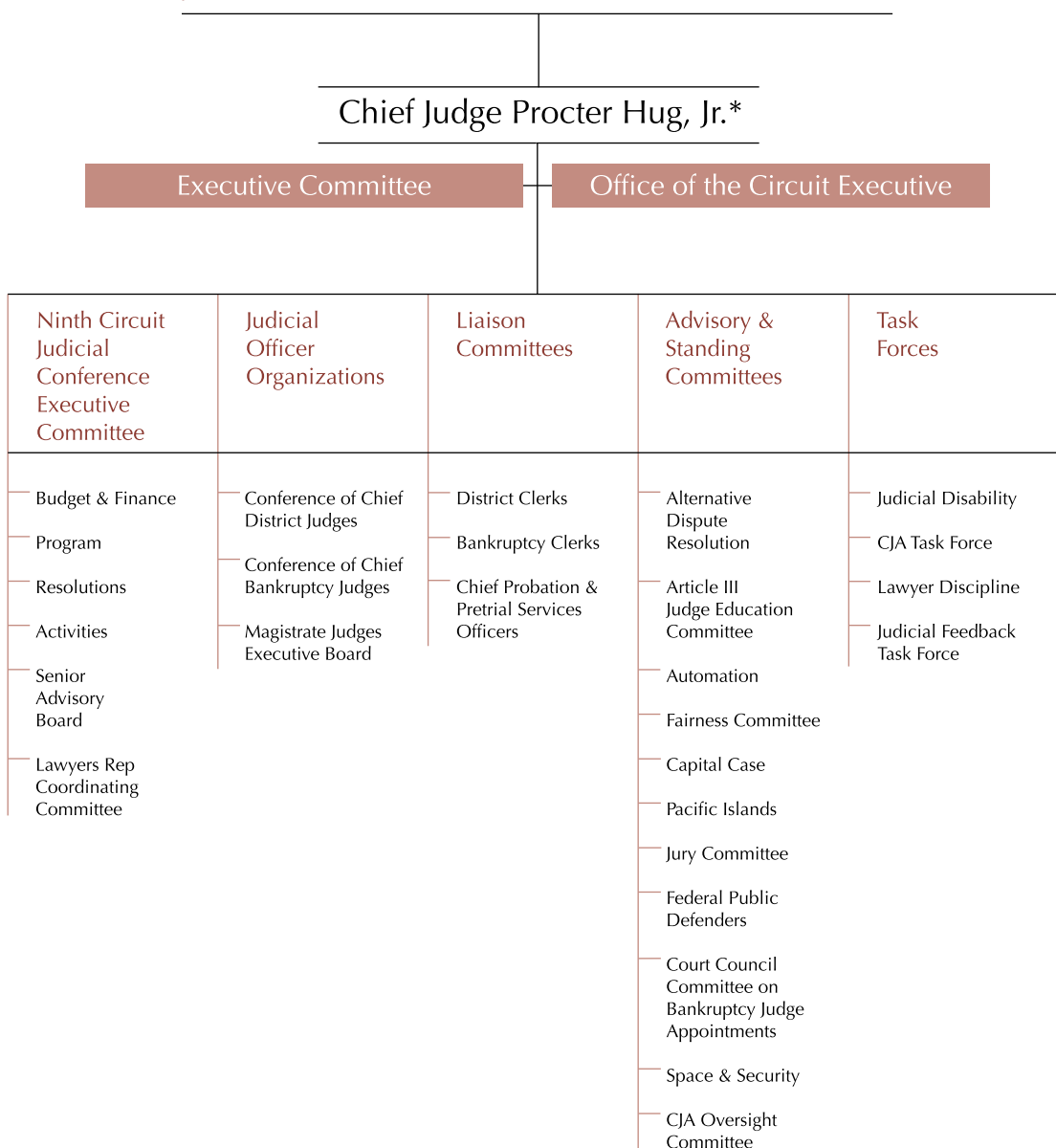
and human resources support, coordinating building and automation projects, and advising the council on procedural and ethical matters. The Office of the Circuit Executive provides management and technical assistance to the court of appeals, district courts, and the bankruptcy courts and, additionally, it organizes and facilitates the annual Ninth Circuit Judicial Conference.

Responsibility for the management of the circuit’s caseload rests with the court of appeals and each of the district and bankruptcy courts. Under the direction of the individual courts’ chief judge and clerk of court, the clerks’ offices provide direct administrative support to their respective courts by processing new cases and appeals, handling docketing functions, responding to procedural questions from the public and bar, and facilitating adequate judicial staff resources. These offices determine calendaring and the need for visiting judges, as well as establish local policies with related agencies. The clerk of court for the court of appeals oversees daily operations for the appeals court and supervises the work in the Circuit Mediation Office and the Office of the Staff

Attorneys, which includes the Research, Motions, Case Management, and Pro Se units. The Office of the Appellate Commissioner is also located in the Ninth Circuit Court of Appeals Clerk’s Office. The commissioner’s office reviews Criminal Justice Act vouchers for cases that come before the court of appeals.

Although based administratively with the court of appeals, the circuit library remains integral to all of the courts by helping all judges, court staff, and the public. The Ninth Circuit maintains its main library in San Francisco as well as at least one library branch in each district. These libraries carry out numerous research projects and respond to information inquiries by judges, chambers, and court staff. Furthermore, the probation and pretrial services offices provide substantial support in the Ninth Circuit by providing supervision and direct services to defendants in the federal courts of the Ninth Circuit. Also, based administratively with the federal courts are the offices of the federal public defender. Under the Criminal Justice Act, these attorneys provide representation to defendants unable

Judicial Council of the Ninth Circuit



*Circuit Judge Mary M. Schroeder assumed the role of Chief Judge on December 1, 2000

New Judges
Deceased Judges
New Courthouses

1



New Judges of the Ninth Circuit

New Circuit Judges



Judge Marsha S. Berzon was appointed on March 9, 2000. Prior to taking the bench, Judge Berzon engaged in private practice for Altshuler, Berzon, Nussbaum, Berzon and Rubin in San Francisco, where she served of counsel from 1978 until 1990, when she became a partner. Previously, she practiced law at Woll & Mayer, in Washington, D.C. (1975-77). Judge Berzon graduated from Radcliffe College (1966) and received her J.D. from the University of California at Berkeley, Boalt Hall (1973). She clerked for Circuit Judge James Browning (1973-74) and for United States Supreme Court Justice William Brennan, Jr. (1974-75). She maintains her chambers in San Francisco.



Judge Richard A. Paez was elevated on March 9, 2000. Prior to taking the bench, Judge Paez was appointed to the United States District Court, Los Angeles, in 1994 and to the Los Angeles Municipal Court in 1981. He worked with several public interest firms, first with California Rural Legal Assistance in Delano, then with the Legal Aid Foundation of Los Angeles and as litigation director for the Western Center on Law and Poverty in Los Angeles. Judge Paez graduated from Brigham Young University (1969) and received his J.D. from the University of California at Berkeley, Boalt Hall (1972). He maintains his chambers in Pasadena.



Judge Johnnie B. Rawlinson was elevated on July 26, 2000. Prior to coming onto the bench, Judge Rawlinson spent 18 years with the Office of the District Attorney, Las Vegas, Nevada, as an assistant district attorney, where she supervised the Civil, Family Support and Administrative divisions (1995-98), as chief deputy district attorney (1989-95) and as deputy district attorney (1980-89). She was appointed by President Clinton to the United States District Court in Las Vegas, NV. Judge Rawlinson graduated from North Carolina A&T State University (1974) and received her J.D. from the University of Pacific McGeorge School of Law (1979). She maintains her chambers in Las Vegas.



Judge Richard C. Tallman was appointed on May 25, 2000. Prior to his appointment to the bench, Judge Tallman engaged in private practice at Tallman and Severin (1983-2000) in Seattle and specialized in white collar criminal defense. Judge Tallman was an assistant U.S. attorney, Western District of Washington (1980-83) and a trial attorney, Criminal Division, U.S. Department of Justice (1979-80). He clerked for Honorable Morell E. Sharp, United States District Court for the Western District of Washington (1978-79). Judge Tallman graduated from the University of Santa Clara (1975) and received his J.D. from the Northwestern University School of Law (1978). He maintains his chambers in Seattle.

New District Judges



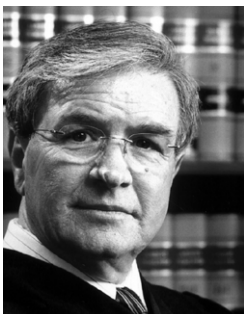
Judge Susan R. Bolton of the District of Arizona was appointed on October 3, 2000. Prior to taking the bench, Judge Bolton served on the Maricopa County Superior Court (1989-2000) and was in private practice (1977-89). She clerked for Judge Laurance Wren of the Arizona Court of Appeals (1975-77). Judge Bolton received her undergraduate degree from the University of Iowa (1973) and her J.D. from the University of Iowa College of Law (1975). She maintains her chambers in Phoenix.



Judge Kent Dawson of the District of Nevada was appointed on July 7, 2000. Prior to his appointment to the federal bench, Judge Dawson sat as Justice of the Peace, Henderson Justice Court, Clark County, Nevada (1995-2000). He engaged in private practice at his own law firm, Kent J. Dawson Law Firm in Las Vegas (1979-95), and served as attorney for the city of Henderson (1973-79). Judge Dawson clerked for Hon. James Guinan, Washoe District Court, Reno (1971-72). Judge Dawson received his undergraduate degree from Weber State College in Utah (1969) and his J.D. from the University of Utah Law School (1971). He maintains his chambers in Las Vegas.



Judge Phyllis J. Hamilton of the Northern District of California was appointed on July 7, 2000. Judge Hamilton had been a United States magistrate judge for the Northern District of California since 1991. Judge Hamilton was Court Commissioner for the Municipal Court for the Oakland-Piedmont-Emerlyville Judicial District (1985-91) and served as an administrative judge with the San Francisco Regional Office of the United States Merit Systems Protection Board (1980-85). She was deputy public defender (1976-80) with the California State Public Defender's Office in San Francisco. Judge Hamilton received her B.A. from Stanford University (1974) and a J.D. from Santa Clara University School of Law (1976). She maintains her chambers in San Francisco.



Judge Roger L. Hunt of the District of Nevada was appointed on May 26, 2000. Prior to his elevation to district judge, Judge Hunt served as United States magistrate judge in the District of Nevada (1992-2000). He engaged in private practice at Rose & Norwood law firm, now known as Edwards, Hunt, Hale & Hansen, Ltd., in Las Vegas (1971-92). Judge Hunt received his B.A. at Brigham Young University (1966) and his J.D. at the National Law Center at George Washington University (1970). He maintains his chambers in Las Vegas.



Judge Mary H. Murguia of the District of Arizona was appointed on October 3, 2000. Prior to her appointment to the bench, Judge Murguia served as executive director of the Attorneys General Association of the United States Department of Justice (1999-2000) and as assistant United States attorney for the District of Arizona (1990-98). Judge Murguia graduated from the University of Kansas (1982) and received her J.D. from the University of Kansas Law School (1985). She maintains her chambers in Phoenix.



Judge James A. Teilborg of the District of Arizona was appointed on October 17, 2000. Prior to taking the bench, Judge Teilborg was a trial attorney at Teilborg, Sanders & Parks in Phoenix (1967-2000), where he specialized in civil litigation, including toxic torts, products liability, professional negligence, and complex litigation. He served previously as a Colonel, United States Air Force Reserve (1974-97). Judge Teilborg attended Colorado State University and received his J.D. from the University of Arizona (1966). He maintains his chambers in Phoenix.

New Bankruptcy Judges



Judge Randolph J. Haines of the District of Arizona was appointed on March 17, 2000. Prior to taking the bench, Judge Haines engaged in private practice at the law firm of Lewis and Roca, in Phoenix, where his practice focused on bankruptcy and commercial litigation. He also has served as a Chapter 11 trustee and as a court-appointed examiner. Judge Haines received a B.A. from the University of Wisconsin (1971), a Ph.D. in philosophy from Yale University (1975), and a J.D. from Stanford Law School (1978). He maintains his chambers in Phoenix.



Judge Eileen W. Hollowell of the District of Arizona was appointed on September 19, 2000. Prior to her appointment to the bench, she worked for the Tucson law firm of Mesch, Clark & Rothschild as a certified specialist in bankruptcy law and in areas of transactional and commercial law. Judge Hollowell also worked for both the Office of the Arizona Attorney General and the United States House of Representatives. She earned an undergraduate degree from the University of Massachusetts, a graduate degree from the University of Michigan, and a J.D. from the University of Arizona. She maintains her chambers in Tucson.



Judge Thomas C. Holman of the Eastern District of California was appointed on December 16, 2000. Prior to taking the bench, Judge Holman engaged in private practice, specializing in bankruptcy and commercial law at the firm of Bullivant Houser Bailey in San Francisco (1999-2000) and at Pettit & Martin (1982-95), where he was chair of the Commercial Finance and Bankruptcy Department. Judge Holman earned his undergraduate degree from the University of California at Berkeley (1968) and received his J.D. from University of California at Berkeley, Boalt Hall (1971). He maintains his chambers in Modesto.

New Magistrate Judges



Judge Monica Benton of the Western District of Washington was appointed on February 28, 2000. Prior to taking the bench, Judge Benton served as a judge for the King County District Court in Seattle and as a senior deputy for the King County Prosecuting Attorney's Office. She has worked as a trial attorney for the Department of Justice and as a senior attorney for the American Prosecutor's Research Institute and for the National District Attorney's Association. Judge Benton received her undergraduate degree from the University of California at Los Angeles (1973) and her J.D. from the Southwestern University School of Law (1980). She maintains her chambers in Seattle.



Judge Kevin S.C. Chang of the District of Hawaii was appointed to the bench on December 19, 2000. Prior to taking the bench, Judge Chang worked for the law firm of Kobayashi Watanabe Ing & Kawashima from 1986 until his appointment to the state court in 1993. He served as deputy prosecuting attorney for the City and County of Honolulu (1980-81) and clerked for District Judge Robert C. Belloni (1978-1980). Judge Chang is a graduate of Lewis and Clark College and Northwestern School of Law (1978). He maintains his chambers in Honolulu.

Judge Jay R. Irwin of the District of Arizona was appointed to the bench on August 16, 2000. Prior to his appointment to the bench, Judge Irwin served as deputy county attorney for Yuma County, Arizona, and was a partner in the law firm of Jensen and Irwin. Judge Irwin received an undergraduate degree from San Diego State University (1969) and his J.D. from Arizona State University (1973). He maintains his chambers in Yuma.



Judge Stephen G. Larson of the Central District of California was appointed on October 2, 2000. Prior to his appointment, he served as an assistant United States attorney in the Los Angeles Criminal Division (1991-2000), working as chief of the Organized Crime Strike Force Section (1999-2000) and as Russian Organized Crime Coordinator (1994-1998). Prior to the U.S. Attorney's Office, Judge Larson engaged in private practice at the Los Angeles office of O'Melveny & Myers (1989-1991). While there, he practiced general litigation, including business, administrative, employment and criminal law. Judge Larson received an undergraduate degree from Georgetown University School of Foreign Service in 1986 and a graduate degree from the University of Southern California Law School in 1989. He maintains his chambers in Los Angeles.



Judge Peggy Ann Leen of the District of Nevada was appointed to the bench on October 23, 2000. Prior to taking the bench, Judge Leen was with the Clark County District Attorney's Office, Criminal and Civil Divisions and engaged in private practice with Thornadal, Backus, Maupin & Armstrong. Judge Leen is a graduate of University of San Diego Law School. She maintains her chambers in Las Vegas.



Judge Nita Stormes of the Southern District of California was appointed on January 3, 2000. Judge Stormes served previously as chief of the Civil Division of the United States Attorney's Office in San Diego. Judge Stormes received an undergraduate degree from Ohio Wesleyan University (1976) and a law degree from Duke University School of Law (1979). She maintains her chambers in San Diego.

Judge Bernardo P. Velasco of the District of Arizona was appointed on September 29, 2000. Prior to his appointment to the bench, Judge Velasco worked for the Legal Aid Society and served as a federal public defender in Tucson. He served on the Arizona Superior Court as both a criminal and civil division judge. Judge Velasco received an undergraduate degree from the University of Arizona (1971) and a J.D. from the University of Arizona Law School (1974). He maintains his chambers in Tucson.

Deceased Judges



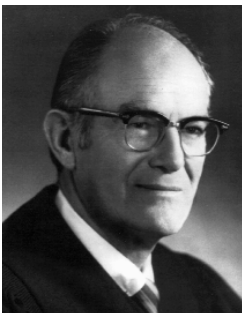
Judge William P. Copple was appointed to the District of Arizona as a district judge on November 3, 1966. Prior to his appointment to the bench, Judge Copple served as United States district attorney in Phoenix (1965-66). He became a partner at Westover, Mansfield and Copple, in Yuma, Arizona (1952-65). Previously, he engaged in private practice (1951-52). Judge Copple received an A.A. at Long Beach Junior College (1934), attended University of California at Berkeley (1949) and earned his J.D. at University of California at Berkeley, Boalt Hall (1951). Judge Copple died on September 14, 2000. He is survived by his wife, Nancy, and two children.



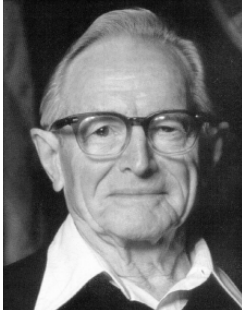
Judge Paul G. Hatfield was appointed to the District of Montana as a district judge on March 15, 1979. He served as chief judge of the district from 1990 to 1996. Prior to his appointment to the federal bench, Judge Hatfield served as staff attorney (1979) and chief justice (1977) of the Montana Supreme Court. Judge Hatfield graduated from College of Great Falls (1950) and received his J.D. from the University of Montana (1955). Following law school, he engaged in private practice and went on to serve as chief deputy county attorney for Cascade County (1959-60) and as a district judge for the State of Montana (1961-76). Judge Hatfield passed away on July 3, 2000. He is survived by his wife, Dorothy Ann, and three children.



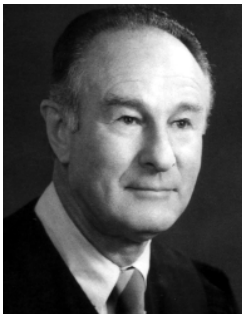
Judge Joseph W. Hedrick, Jr. was appointed to the Eastern District of California as a bankruptcy judge on January 11, 1980. Prior to taking the bench, Judge Hedrick practiced law in Fresno. He graduated from Hastings College of Law (1952). Judge Hedrick died on September 23, 2000. He is survived by his wife, Ann, and two children.



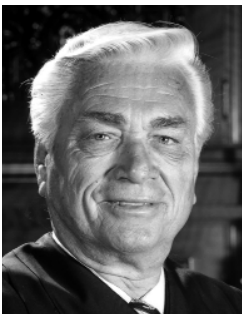
Judge Thomas J. MacBride was appointed to the Eastern District of California as a district judge on September 22, 1961. Prior to his appointment to the bench, Judge MacBride engaged in private practice at MacBride and Gray (1946-51) and served as a deputy attorney general in California (1940-42). He graduated from the University of California at Berkeley (1936) and received his J.D. from the University of California at Berkeley, Boalt Hall (1940). Judge MacBride died on January 6, 2000. He is survived by his wife, Martha, and four children.



Judge Martin Pence was appointed to the District of Hawaii as a district judge on September 22, 1961. Prior to taking the bench, Judge Pence was a judge for the Circuit Court of the Third Circuit, Territory of Hawaii (1945-50) and served as county attorney for the County of Hawaii (1938-45). He engaged in private practice in Hilo, Hawaii (1936-38 and 1950-61). Judge Pence attended Sterling College and graduated from the University of Kansas. He received his J.D. from the University of California at Berkeley, Boalt Hall. He died on May 29, 2000, and is survived by his wife, Eleanor, and four children.



Judge Edward J. Schwartz was appointed to the Southern District of California as a district judge on March 28, 1968. Judge Schwartz served previously as a municipal court judge (1959-64) and as a superior court judge (1964-68) in San Diego. Judge Schwartz graduated from San Diego State College (1934) and received his J.D. from San Francisco Law School (1939). He served as a lieutenant commander in the United States Navy during World War II. Judge Schwartz died on March 22, 2000. He is survived by his wife, Gertrude, and three children.



Judge Charles E. Wiggins was appointed to the Ninth Circuit Court of Appeals in 1984. Prior to his appointment to the bench, Judge Wiggins engaged in private practice. He served as mayor of El Monte, California (1960-66) and was a member of the United States House of Representatives (1967-79). Judge Wiggins received an A.A. from Pasadena City College (1949), a B.S. from the University of Southern California (1953), and an LL.B. from the University of Southern California Law School (1956). He clerked at the Los Angeles Superior Court (1956-57). Judge Wiggins died on March 2, 2000. He is survived by his wife, Betty, and five children.



Judge David W. Williams was appointed to the Central District of California as a district judge on June 30, 1969. Prior to his appointment to the federal bench, Judge Williams served as presiding judge of an eight-judge district court in Santa Monica (1966-68). He also sat on the bench for Los Angeles Municipal Court and Los Angeles Superior Court. Judge Williams graduated from the University of California at Los Angeles (1934) and received his LL.B. from the University of Southern California Law School (1937). He died on May 6, 2000 and is survived by two sons.

Courthouse Construction Projects



Seattle
U.S. District Courthouse
Square footage: 369,000
Anticipated completion date: 2005

Construction Projects

Los Angeles

U.S. District Courthouse

Square footage: 1,016,300

Anticipated completion date: 2006



Phoenix

Sandra Day O'Connor Federal Building and U.S. Courthouse

Square footage: 571,078

Completed in April 2001



Fresno
Federal Building and U.S. Courthouse
Square footage: 430,000
Anticipated completion date: 2006



Tucson
Eva Deconcini U.S. Courthouse
Square footage: 450,493
Completed August 2000



Las Vegas
Lloyd D. George U.S. Courthouse
Square footage: 475,280
Completed in June 2000



Riverside

George E. Brown Jr. U.S. Courthouse
Square footage: 73,560
Completed December 2000



Guam
U.S. District Court
Square footage: 26,000
Completed in June 2000

Other Projects

Eugene, Oregon

U.S. District Courthouse and Federal Building
Square footage: 264,000
Anticipated completion date: 2006

San Jose

U.S. District Courthouse and Federal Building
Square footage: 441,110
Anticipated completion date: 2008

San Diego

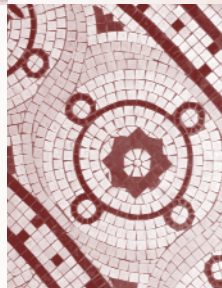
U.S. District Courthouse and Federal Building
Square footage: 527,610
Anticipated completion date: 2007

1990 to 2000

This year's annual report takes a look back at the last decade and some of the major issues that impacted the Ninth Circuit.

Inside you will find a review of significant environmental cases in the 1990s, a look at the courts' advances in electronic case management and filing, strides taken in alternative dispute resolution, and efforts made to increase community outreach by the Judiciary.

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Border Courts Stagger Under Burgeoning Caseloads

A Department of Justice crackdown on drug smuggling and illegal immigration prosecutions along the United States-Mexico border in the 1990s brought a tidal wave of new cases to federal courts in Southern California, Arizona, New Mexico, and Texas. Many had a hard time keeping up with surging caseloads and turned to Congress in hope of gaining new judgeships.

In addition to feeling the effects of the Department of Justice's campaign against illegal drugs, the Southwest border districts began to experience rising caseloads caused by immigration laws enacted in 1997 that increased enforcement against illegal aliens. The Ninth Circuit's Southern District of California, which abuts the Mexican border, was especially hard hit.

In October of 1994, the Department of Justice initiated a program at the San Diego border called Operation Gatekeeper, which stepped up the number of border patrol agents from 980 in 1994 to 2,264 in 1998 and increased the presence of high-tech surveillance equipment and other resources.

Three years later, Congress strengthened immigration laws through passage of The Illegal Immigration Reform and Immigrant Responsibility Act. The Act expanded the authority of federal courts to order deportation of criminal aliens, increased penalties for alien smuggling, and authorized the hiring of hundreds of new border patrol agents.

But, while Immigration and Naturalization Service (INS) resources grew, judicial resources fell behind. Between 1994 and 1998, Drug Enforcement Agency (DEA) personnel in the nation's Southwest border



courts surged 155 percent; Border Patrol personnel, 99 percent; INS personnel, 93 percent; and FBI personnel 37 percent. By contrast federal judgeships in border districts increased only 4 percent, with probation and pretrial positions increasing 19 percent.

Caseloads Rise

The border courts—already suffering from a shortage of judges—began to reel under the rising caseloads. In 1998, 1999 and 2000, the Southern District of California (CAS) far outstripped other districts in the circuit in its weighted* caseload per judgeship for criminal felony defendants, reporting 1,030, 1,018, and 997 filings respectively in these three years.

The district that reported the second highest number of filings in 2000 was the Eastern District of California, which includes Sacramento and Fresno—with 685 weighted filings per

judgeship—and the District of Arizona—with 621 weighted filings per judgeship. Courts in both the Eastern District of California and Arizona also have been burdened with increased caseloads due to stricter enforcement of immigration laws.

Judicial Emergency

During Congressional budget hearings in 2000, the U.S. Judicial Conference, the governing body which represents federal courts, had recommended that the Southern District receive eight new judgeships (five permanent and three temporary). Yet, in the final appropriations bill approved by Congress, every federal court along the U.S.-Mexican border except the Southern District of California was slated for new judgeships. In response to the dire situation in the Southern District, the chief judge declared a judicial emergency. As a result of the case backlog, the district was experiencing increasing delays in processing of civil cases as criminal cases took precedence under the U.S. Speedy Trial Act.

With the nation's heaviest caseload, the Southern District of California relied heavily on visiting judges from other districts and senior-status judges. Five senior-status judges, ranging in age from 68 to 86, helped with cases in 2000—at a time in their career when they normally would have been taking reduced caseloads.

Judges Testify Before Congress

In May 2000, judges from several border courts traveled to Washington, D.C. to testify before Congress and to plea for more judgeships. The chief judges from each of the five border courts briefed members of the Congressional Border Caucus regarding the crisis. On June 30, 2000, Judge W. Royal Furgeson, of the Western District of Texas, testified before the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources concerning the impact on the criminal justice system of dramatically increased drug trafficking on the Southwest Border courts. Judge Furgeson testified that, of the 1.6 million apprehensions along the five Southwest border states in 2000, less than 1 percent were prosecuted. Reasons cited were: the Department of Justice is lacking enough attorneys to prosecute all who enter illegally; the U.S. courts do not have enough judges to handle the ensuing cases, and the Bureau of Prisons does not have enough prison space to imprison those convicted.

Not only judges, but clerks of court and probation and pretrial officers in border districts also were feeling the effects of rising caseloads. In February 2000, the Southwest Border Courts Conference was held to give court personnel and judges the opportunity to share ideas on how to make the most of inadequate judicial resources. In coming years, the Judiciary in these districts will continue to seek ways to administer justice in a timely and fair manner while reiterating to Congress the dire need for additional judgeships.

***weighted filings**—Weighted cases provide a circuit with a statistical benchmark for determining the need for additional judgeships. A district may request additional judgeships when the calculation for its weighted caseload exceeds 430 cases per district judgeship, including the additional judgeships requested.

Profile of a Chief Probation Officer: Martha J. Crockett, Southern District of California



The upturn in probation workloads has been most dramatic in the Southern District of California, one of the “border courts” coping with a flood of drug smuggling and illegal immigration cases. Probation officers regularly work nights and weekends just to keep up with the ever-expanding caseload, says Martha Crockett, former chief probation officer of the Southern District.

Ms. Crockett recently retired after 33 years as a federal probation officer. She was the chief probation officer for the Southern

District for eight years, supervising a staff of 100 officers working out of offices in San Diego and El Centro, near the Arizona border. Shortly after her promotion to chief probation officer, the Department of Justice implemented Operation Gatekeeper, which provided 1,000 new border patrol agent positions at the San Diego border, dramatically increasing arrests.

Like every other court unit in San Diego, the Probation Department felt the impact of Operation Gatekeeper. “There wasn’t enough time in the day to deal with all of the new cases,” recalls Crockett. “You could see the fatigue in the faces of the probation officers.”

Probation work involves not only supervision of defendants, but also researching and preparing pre-sentencing and post-sentencing reports. For the Southern District of California, where many defendants are illegal aliens, this can be a complex and formidable task, requiring officers to sort through numerous fictitious names, social security numbers, dates of birth, and criminal histories. Crockett praised the Southern District probation officers for their exceptional work in researching and preparing reports under such tight deadlines.

As the chief probation officer, Ms. Crockett said one of her biggest challenges was recruiting and retaining qualified staff. The job is extremely demanding and the cost of living in Southern California is high, she notes. Veteran officers burned out by too many long nights away from their families are opting to relocate to less expensive locales, such as Texas, Louisiana and Virginia. As a result, new officers with little experience are taking on work that should have been done by more seasoned veterans, she says.

Martha Crockett did a tremendous job running the Probation Office in the Southern District during a trying and difficult time, says Chief Judge Marilyn Huff. “She came up with innovative techniques to handle the rising caseloads but without doing a disservice to the defendants under supervision,” said Huff. “She was a fabulous probation officer and ran a wonderful office. We’re extremely thankful for the time she put into the court.”

Ms. Crockett credits team work for the ability of the Probation Office to keep its head above water despite the incredible pressures and challenges. “The judges, probation officers, and court staff all pulled together to meet the day-to-day challenges,” said Crockett. “This has always been a very cohesive court. Under adverse circumstances, everyone produced high quality work on a consistent basis. The people are amazing. It was a wonderful court to work for and was a life-long dream for me.”

Crockett is hopeful Congress soon will provide the judgeships and the funding needed for the Southern District to handle its tremendous caseload. If not, she says, “it will be really difficult to find and keep the kind of personnel that has become the hallmark of the Judiciary in California.”

Legislative Influences in the 1990s

During the 1990s, the judicial leadership of the Ninth Circuit was occupied nearly as much by the legislation Congress did not enact as by the bills that actually became the law of the land. Most notable among the former was the prolonged, but ultimately unsuccessful effort to create a new Twelfth Circuit by splitting off a number of Ninth Circuit states.

Also worth noting were the absence or failure of judgeship bills in five consecutive biennial sessions of Congress, and the ongoing partisan conflict over filling vacancies on the district and circuit court benches.

Splitting the Circuit

Over the course of its 134-year history, there have been a number of attempts to divide the Ninth Circuit into smaller judicial units. But the most recent may be remembered as the most persistent. From 1990 through 2000, more than a dozen bills related to court restructuring were introduced in Congress. Few of these bills ever cleared committee and only one came to a full floor vote. The Senate was the principal arena for the debate, although the House played a key role at a critical juncture in the legislative process.

A number of split-the-circuit schemes were put forth, most involving the creation of a new twelfth judicial circuit whose core composition consisted of Alaska, Washington, Oregon, Idaho and Montana. Early versions included Arizona in the new 12th circuit, while later variations returned Arizona, but took away Hawaii, Guam and the Northern Mariana Islands. Proponents of the

restructuring argued the changes were needed to better manage the court's growing caseloads, promote greater consistency in judicial decision-making, and increase sensitivity to interests of the Pacific Northwest. However, in-depth review by an independent panel revealed neither inefficiencies in the operation of the circuit, nor inconsistencies in the decisions of its judges.

A court restructuring bill introduced in 1995 eventually won Senate approval in 1997. However, the House favored further study of the matter. That led to the creation of the Commission on Structural Alternatives for the Federal Courts of Appeals, chaired by retired United States Supreme Court Justice Byron White. The commission issued a draft report in 1998 and a final report in late 1999, both concluding that the Ninth Circuit should not be split, but recommending reconfiguration of the Court of Appeals into three geographic divisions.

A bill seeking to implement the commission's recommendations was introduced in the Senate in 1999, but never emerged from committee. By the following year, proponents had reverted to their previous strategy with another Senate bill to split the circuit and court of appeals in two. That bill also failed to clear committee.



Throughout the 11-year struggle, the Judicial Council of the Ninth Circuit was steadfast in resisting efforts to split the circuit. Two former chief judges, the Honorable Clifford J. Wallace followed by the Honorable Procter S. Hug, Jr., carried the argument to Washington, D.C. Many other judges, legal scholars and members of the bar also contributed to thwarting the split-the-circuit movement.

New Laws Affecting the Courts

Of course, Congress did pass legislation affecting the courts. One of the most significant court-related bills enacted in the 1990s was the Anti-Terrorism and Effective Death Penalty Act (AEDPA), which went into effect in April 1996. The law changed how district and circuit courts dealt with death penalty cases by setting tight time limits on the capital habeas corpus process. A capital habeas corpus petition challenges imposition of the death penalty based on alleged violations of the constitutional rights of the accused during their trial and/or sentencing. The process is long, complex and costly. AEDPA requires filing of a federal capital habeas petition within one year of completion of a state capital habeas process. This is a much shorter interval than what typically occurred prior to AEDPA. The net result for the Ninth Circuit (and other circuits) was a sudden and sharp increase in capital habeas corpus petitions.


Ninth Circuit courts also were affected by the Prisoner Litigation Reform Act (PLRA), which also was enacted in 1996. The law was intended to curb frivolous litigation brought by

prisoners, many of whom were seeking only to clog the court system. The PLRA required that, whenever possible, prisoners assume some of the cost of their legal filings, which had been free up until then. The change is credited with reducing for a time the number of prisoner filings.

DOJ and the Border Courts

Operating under a congressional mandate and increased funding, the Department of Justice (DOJ) in 1995 undertook the Southwest Border Initiative (SBI), a national strategy designed to crack down on illegal immigration and drug smuggling in Southern California, Arizona, New Mexico and Texas. DOJ stationed thousands of additional Border Patrol, INS and DEA agents along the Mexican border. The result was record numbers of arrests and an enormous increase in caseloads for judges in the border courts, which include the Southern District of California and the District of Arizona. Efforts to gain a proportional number of additional judgeships for these courts have met with mixed results. Despite the absence of a nationwide judgeship bill, Arizona obtained three new judgeships through other legislation. The Southern District of California, which had been recommended for eight new judgeships (five permanent, three temporary) by the Judicial Conference of the United States, received none and declared a judicial emergency in 2000.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which expanded the federal court's



Throughout the 11-year struggle, the Judicial Council of the Ninth Circuit was steadfast in resisting efforts to split the circuit.

authority to deport aliens convicted of crimes, also affected the border courts. This change contributed to an increase in pro se litigants seeking to avoid deportation.

No Discretion in Sentencing

The 1990s also found district court judges in the Ninth Circuit presiding over criminal trials with considerably less discretion in criminal sentencing. Federal Sentencing Guidelines established mandatory maximum and minimum sentences, largely removing a judge's authority to modify sentencing. Enacted in 1987, the guidelines took root in the 1990s. Discretionary power essentially shifted to federal prosecutors, who decide which charges to bring, and also to probation officers, whose pre-trial investigations and reports became critical to determining sentences.

Ninth Circuit Faces Variety of Space and Facilities Issues

As Ninth Circuit caseloads continued to grow in the past decade, 11 new courthouses were built to meet the growing needs of the judicial system in the West. Two of the recently completed courthouses in Las Vegas and Phoenix were recipients of Design Excellence Awards, which are presented by a committee of architects, judges and staff of the General Services Administration (GSA), the government agency that oversees courthouse construction projects.

Improved Security Measures Following Oklahoma City Bombing

In addition to space needs, the Judiciary faced the need for greater security. Following the terrorist bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995, the Judiciary and GSA reevaluated security measures for all new courthouses. Design standards were upgraded to incorporate heightened blast-resistance features in all future construction.

Since the Oklahoma City bombing, GSA also has spent \$1.2 billion in security upgrades to existing federal buildings. The number of guards and security officers on duty were doubled, and thousands of additional security cameras, x-ray machines, metal detectors and other devices were put in place. All federal projects were reviewed for compliance with new bomb blast resistance standards.

The Lloyd D. George U.S. Courthouse in Las Vegas was the first courthouse constructed using the new standards. Walls and windows were strengthened

to withstand a bomb blast, and additional site perimeter protection and increased building setbacks also were employed. The goal of the new standards was to lessen injuries from flying glass and debris, while keeping the core of the building intact.

In San Francisco, a new plaza at the Phillip Burton Federal Building and U.S. Courthouse was constructed with concrete and steel barriers to prevent vehicles carrying explosives from parking next to the building. Designers of the plaza were the recipient of a GSA Design Award and were commended for their ability to create a space that meets the new security standards while remaining aesthetically inviting to visitors.

Also in 2000, scientists from Lawrence Livermore Laboratory and the University of California at Berkeley began research on new bomb blast resistance techniques. The scientists came up with a design that uses cables embedded in floors and building structures and which acts as an emergency support if a supporting column is destroyed. The new cable design will be used in a new federal

courthouse that will begin construction in Seattle in 2001.

Earthquake Closes Court of Appeals Building

The 1990s also saw the Judiciary in the Ninth Circuit dealing with the after effects of a 7.1 magnitude earthquake that shook San Francisco on October 17, 1989. The earthquake did \$91 million damage to the court of appeals building at 7th and Mission streets. The building was closed for seven years while seismic retrofitting and repairs took place. Judges and staff were scattered throughout six San Francisco buildings for three years until a lease could be obtained at a space large enough to accommodate everyone. The building reopened in 1996 with new, state-of-the-art seismic retrofitting.

Keeping Up With Technology

Another influence on courthouse design in the 1990s was the increased use of technology in the courtroom. As more federal courts began taking advantage of videoconferencing, video trial recording, and computers,

Judge Lloyd D. George: a Driving Force Behind New Las Vegas Courthouse



architects had to incorporate the space requirements of these technologies into their courtroom designs.

As more courts are choosing to hold arraignments by videoconference and closed-circuit television, the need for attorneys and defendants to actually be in the courtroom is becoming less of a necessity—thus substantially reducing prisoner transportation and security costs. In the future, architects are likely to incorporate designs to accommodate videoconferencing in judges chambers, freeing up valuable courtroom space.

Public buildings are usually named for long departed civic leaders. A notable exception is the new Lloyd D. George United States Courthouse in Las Vegas, which opened in December 2000.

The namesake for this dramatic new steel-and-concrete landmark in the city's downtown business district is very much in the here and now. U.S. District Judge Lloyd D. George has the singular honor of being the only living Ninth Circuit judge for whom a courthouse has been named.

"I'm not sure if I'm worthy, but I am certainly delighted," says Judge George, who is credited by many with shepherding the Las Vegas courthouse project from concept to completion.

Judge George, now 71 and on senior status, has served on the federal bench in the District of Nevada for almost 28 years. He was a bankruptcy judge from 1974 to 1984, when President Reagan nominated him for a district court judgeship. After eight years as a trial judge, he was elevated to Chief District Judge, serving from 1992 to 1997. As chief judge, he helped secure a prime building site for the courthouse, lobbied for federal funding of the project, and channelled judicial input into the design of the new structure.

Construction began in 1997 and the courthouse was completed in fall 2000, on time and within budget. The final product has been widely praised and was a recipient of the General Services Administration's 2000 Design Awards. The L-shaped, steel-frame structure features a large plaza elevated above street level and shaded from the desert sun by a huge trellis-canopy supported, in part, by a single, soaring column of steel. Inside the eight-story, 456,000-square-foot building are 10 courtrooms (plus room for up to eight more to accommodate anticipated future growth), a modern jury assembly area, and office space for various court units.

Judge George grew up in Las Vegas and, except for college, law school and a stint in the U.S. Air Force, has lived most of his life there. He believes the new courthouse can become a focal point of a revitalized downtown in one of the fastest-growing communities in the nation.

"I hope this building will become a cultural center for Las Vegas," Judge George said. "We want the residents of the community to feel that this building belongs to them."

Network Advances Lay Groundwork for Court's Online Presence

As the year 2000 came to a close, courts in the Ninth Circuit began entering the brave new world of case management and electronic case filing (CM/ECF). An Internet browser-based system that also can be used on the court's internal Intranet, CM/ECF holds the promise of a "paperless" court and "24/7" service to the public. Judges and court staff will use CM/ECF to manage cases from filing to termination. Attorneys will go "online" to file motions and pleadings. And many court records will be accessible via the Internet to virtually anyone, anywhere, at any time.

Bankruptcy courts in the Southern District of California and the District of Arizona participated in the pilot CM/ECF project organized by the Administrative Office of the United States Courts (AO). Four other bankruptcy courts and two district courts within the circuit have since

implemented CM/ECF, in total or in part. More courts will come online as the AO continues its program rollout over the next few years.

Although it sounds revolutionary, CM/ECF is really an evolutionary development, made possible by a series of technological advances in court operations over the last decade. The most important of those advances was the creation of a data communications network (DCN) linking all of the courts in the Ninth Circuit's 15 far-flung districts. The DCN consists of leased, high-speed, high-capacity telephone lines connecting outlying district courts to network hubs in Northern and Southern California, each serving roughly half of the circuit.

Until the DCN was completed in the mid-1990s, services now taken for granted by court staffs, such as e-mail and file sharing, either didn't exist or were extremely limited. The DCN made communications possible not only with court staff across town, but across the circuit and the country.



A member of the Automation staff of the Office of Circuit Executive checks on the circuit's data communications network.

E-mail quickly became the preferred mode of communication and is now, arguably, the most critical application in the federal judiciary. The DCN also made possible the introduction of several circuit-wide applications for case management, budget preparation, review of vouchers, and gathering of statistics.

With the DCN in place, federal courts were able to establish an Internet presence in 1997. High-capacity data portals to the Internet were set up on the East Coast to serve the central states and eastern seaboard; in the South, to serve the Gulf Coast states; and on the West Coast. In addition to serving the nine states and two Pacific territories that comprise the Ninth Circuit, the West Coast portal also provides Internet access to court users in the Eighth and Tenth circuits.

Automation staff from the Office of the Circuit Executive set about helping each of the Ninth Circuit's district and bankruptcy courts to establish their own web sites. It took about two years to accomplish this goal. Today, the circuit hosts more than 40 web sites, including several operated by court departments, such as probation and pre-trial services. The courts have both internal sites, accessible only from the court Intranet, and external sites that can be reached through the Internet. Also in place are third-party systems, such as PACER and RACER, offering limited "pay-per-view" access to court records.

Internet access has proved a boon to the courts in the areas of media relations and community outreach. Courts with high-profile trials now

regularly post case-related information on their Internet websites, significantly reducing document requests from the media and public. For example, the Ninth Circuit Court of Appeals web site logged about 90,000 "hits" in one day from people seeking an appellate panel opinion in **Napster v. A&M Records et al**, a case involving music swapping over the Internet. In the community outreach area, many courts provide a variety of online educational resources.

If not quite on the leading edge of network technology now, Ninth Circuit courts soon will be. Plans are being made by the Administrative Office and circuit automation staff to replace the court's older "hub-and-spoke" network technology, which relies on "point-to-point" communication along predetermined routes. It will be replaced with more advanced networking technology, which is smart enough to route around bottlenecks, thus providing faster and more reliable service to the courts. The migration is scheduled for completion by the middle of 2002.

Of course, none of this would have been possible without the computer revolution that began in the 1980s and continues to this day. As did the rest of the business world, the courts benefited from the rapid advances in computer technology. As computers became less expensive, they became more commonplace in the court offices. And as the machines became more powerful, they were put to use for more varied tasks. Networking harnessed this power to the advantage of the entire Judiciary. As these technologies continue to evolve, the Ninth Circuit is committed to evolving right along with them.



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Environmental Law in the Ninth Circuit

Due to its size and diverse geography, the Ninth Circuit Court of Appeals regularly decides a large number of significant environmental cases. The following is a sampling of some of the major environmental issues addressed by the court in the past decade.

Exxon Valdez

Baker et al v. Exxon Corp.

The 1989 Exxon Valdez oil spill in Prince William Sound, Alaska, generated a number of lawsuits against Exxon. One of the most significant of these was Baker et al v. Exxon Corp., in which a jury ruled in favor of the plaintiffs in a class action suit, awarding compensatory damages and \$5 billion in punitive damages. Exxon appealed the lower court judgment in March 1997 and the case was argued in the Court of Appeals in May 1999.

In another case related to the Exxon Valdez spill, a jury found that the captain of the Valdez, Joseph Hazelwood, had acted recklessly and that his recklessness caused the oil spill. Hazelwood appealed the lower court judgment. Appellate opinions are pending in both cases.



Makah Whaling

Metcalf v. Daley

In a June 2000 ruling, an appellate panel reversed a lower court decision out of the Western District of Washington, which would have allowed the Makah Indians to resume whaling

for the first time in 70 years. The panel determined that the National Marine Fisheries Service had violated the National Environmental Policy Act (NEPA) by agreeing to support the tribe's whaling application before it published a draft environmental impact statement (EIS) on the matter. The case was sent back to the district court in Tacoma, Wash., and the fisheries service was ordered to produce a new environmental assessment.

Endangered Species

United States v. McKittrick

This 1998 decision grew out of efforts to restore Canadian gray wolves in the United States. Under a 1982 amendment to the federal Endangered Species Act, the U.S. Fish and Wildlife Service is authorized to reintroduce experimental populations of endangered or threatened species for the purposes of recovery. In 1994, the service released a number of the Canadian gray wolves into Yellowstone National Park and central Idaho. One of the wolves released into Yellowstone was subsequently killed and skinned by Chad McKittrick, who was convicted of illegally taking and possessing a member of the experimental population.

McKittrick appealed his criminal conviction, arguing that the reintroduced wolves had been improperly designated as an experimental population because

they were not “wholly separate geographically” from naturally occurring wolves in Yellowstone. In reviewing regulations pertaining to the experimental populations, an appellate panel concluded that the “wholly separate geographically” requirement had not been violated.

Water Needs vs. Wildlife Preservation

Northwest Environmental Defense Center v. Bonneville Power Administration

A 1997 opinion by the Court of Appeals attempted to strike a balance between the need for hydroelectric power and wildlife preservation in the Pacific Northwest. Recognizing that dams have had a devastating effect on fish and wildlife, especially salmon, Congress enacted the Northwest Power Act of 1980. The law requires that preservation of fish and wildlife be regarded as important a provision as a supply of regional power and water. The law was cited by the Northwest Environmental Defense Center in petitioning the Ninth Circuit to review a 1990 agreement between British Columbia Hydro, a Canadian power generator, and its U.S. counterpart, the Bonneville Power Administration (BPA), administered by the U.S. Army Corps of Engineers. The center claimed water storage areas that could be used for aiding salmon restoration were, instead, used for power purposes.

An appellate panel concluded that

BPA should balance power needs with wildlife needs on a system-wide basis. BPA was required to undertake a system-wide analysis of the Columbia River hydro system and develop a mechanism for fulfilling its obligations under the Northwest Power Act.

Timber Sales vs. the Spotted Owl **Portland Audubon Society v. Babbitt and** **Seattle Audubon Society v. Espy**

In these 1993 cases involving timber sales in Oregon, Ninth Circuit appellate panels affirmed injunctions issued by district courts which halted U.S. Forest Service and Bureau of Land Management (BLM) timber sales on land inhabited by the spotted owl. The injunctions were in place until the agencies complied with the National Environmental Policy Act (NEPA) requirements to evaluate all new, reliable and significant information for a Supplemental Environmental Impact Statement (SEIS). The two agencies had refused to update the SEIS in light of significant, scientifically reliable information about the effect of logging on the spotted owl's ability to survive.

First Challenge to National Scenic Area Act

Columbia River Gorge United v. Yeutter

In 1992, the Court of Appeals heard the first legal challenge to the Columbia River Gorge National Scenic Area Act. This 1986 law created a unique partnership among federal, state and tribal governments to protect and enhance the Columbia River Gorge area straddling the Oregon-Washington border. A group of property owners and an organization known as Columbia Gorge United (CGU) brought suit against the Secretary of Agriculture and the Gorge Commission. The plaintiffs claimed the Act and a related interstate compact between Oregon and Washington violated the U.S. Constitution and the constitutions of two states. Under

terms of the compact, Washington and Oregon agreed to use a regional approach and a uniform set of legal standards to govern the protection of natural resources and future economic development.

The district court granted summary judgment, rejecting all of the plaintiffs' claims. On review, the Court of Appeals concurred, concluding that the legislation was the result of mutual cooperation between the federal government and the states, and that the U.S. Constitution gave Congress the power to pursue its objective of preserving the Gorge through the interstate compact of the National Scenic Act.

Air Quality at the Grand Canyon

Central Arizona Water

Conservation District v. Environmental Protection Agency

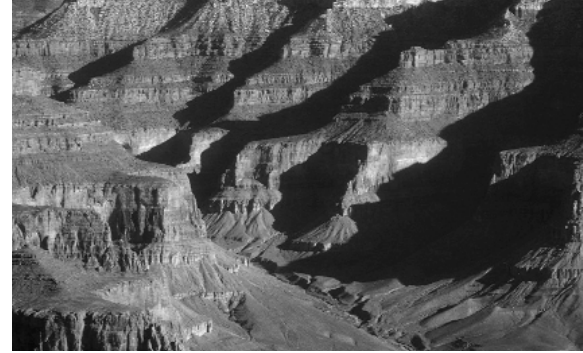
This 1991 case had far-reaching implications for visibility protection in national parks and wilderness areas. The U.S. Environmental Protection Agency (EPA) found that the Navajo Generation Station, a power plant 16 miles from the Grand Canyon, contributed to visibility impairment at the park. EPA required the plant to reduce sulfur dioxide emissions by 90 percent. The Central Arizona Water Conservation District (CAWCD) and four other water irrigation districts petitioned the court to review the EPA ruling. A Ninth Circuit appellate panel decided in favor of the EPA, concluding that the EPA requirement made "reasonable progress" toward the national goal of remedying visibility impairment at the Grand Canyon, and is the product of reasoned decision-making."

Native American Fishing Rights

Sohappy v. Hodel and

United States v. Oregon

Indian fishing rights were altered or clarified as a result of these two cases



decided in 1990. In *Sohappy v. Hodel*, an appellate panel upheld treaty promises made by the federal government to Indian tribes of the Pacific Northwest. The case began when the Bureau of Indian Affairs attempted to enforce a 1969 regulation banning permanent Indian buildings on their usual and accustomed fishing sites. The district court granted the government's motion for summary judgment and issued an injunction to stop Indians from maintaining permanent structures. An appellate panel reversed this decision, holding the regulation invalid because it conflicted with 1855 treaties and a 1945 Act of Congress.

In *United States v. Oregon*, an appellate panel affirmed a district court's approval of a plan allocating the harvest of Columbia River fish over the objections of the State of Idaho and the Shoshone-Bannock tribes, who claimed the plan threatened Idaho's wild steelhead species. At the time, due to U.S. Supreme Court and Congressional actions, fishery harvest amounts were set by the states of Washington and Oregon after negotiations with other parties and adoption through court approval. The panel also upheld the lower court's denial of an attempt to intervene by the Makah tribe, who claimed the plan would allow overfishing by Columbia River tribes.

Courts Communicate with Media, Community

In the 1990s, state and federal courts throughout the nation began placing greater emphasis on public information and community outreach. This change came in response to surveys showing that public confidence in the courts was declining. Many of those surveyed knew very little about the courts and based their views largely on what was reported by the media. Their dissatisfaction was generalized, applying to both state and federal courts.

State courts were the first to respond to the crisis. Recognizing the importance of the media to the public's understanding, many courts hired public information officers (PIO) to deal with reporters. The effort was later expanded to include direct outreach to

community groups to educate them on the roles and responsibilities of judges, lawyers, clerks and other court staff. The federal courts soon followed and are moving swiftly to catch up. To improve communications with the press and public, the Executive Committee of the Judicial Conference of the United States in 1998 approved establishment of a court-based community outreach public affairs pilot project. The First and Fifth Circuits and the Northern District of Illinois (Chicago) volunteered to participate. Using funding provided by the Administrative Office of the United States Courts (AO), these two circuits and the district court hired PIOs to plan and implement programs aimed at improving media relations and strengthening community ties.

Acting independently of the national pilot project, the Ninth Circuit took the concept a step further. In 1999, the



Television reporters hoping to film plaintiffs in the *A&M Records v. Napster* case waited patiently in the lobby of the federal building in the Northern District of California.

Judicial Council of the Ninth Circuit authorized the conversion of an existing Assistant Circuit Executive position into a full-time PIO. The new PIO serves as a point of contact for media inquiries and advises judges and clerks in the district and bankruptcy courts on how to respond to the media. The PIO also is responsible for proactively communicating the court's message on critical topics, such as judgeship bills.

A year after authorizing the PIO position, the Judicial Council of the Ninth Circuit next moved to establish a Public Information and Community Outreach (PICO) Committee, comprised of judges from the circuit, district, bankruptcy and magistrate courts, along with attorneys, clerks of court and public relations consultants. Representatives of the print and broadcast media may be added in the future. District Judge Alicemarie H. Stotler of the Central District of California chairs the committee, and Circuit Judge Procter H. Hug, a former chief judge of the circuit, is a member.

The committee initially is charged with surveying existing community outreach efforts by state and federal courts in the western states. It also is expected to focus closely on media relations, developing model media information programs that can be used in full or in part by the district courts.



When *A&M Records v. Napster* reached the court of appeals, media interest remained high.

"This is a very broad subject and we will eventually have to narrow our focus. But for now, we're trying to be open to all sorts of ideas," observed Judge Stotler.

The national pilot project, meanwhile, has ended. Two of the three participants, the First Circuit and the Northern District of Illinois, have made their PIOs permanent positions funded in their regular budgets. In addition, the Second and Third Circuits have added positions responsible for media relations and/or community outreach.

Many of those surveyed knew very little about the courts and based their views largely on what was reported by the media.

Ninth Circuit Embraces Alternative Dispute Resolution

During the 1990s, courts in the Ninth Circuit saw an explosion of interest in Alternative Dispute Resolution (ADR) in civil and bankruptcy proceedings. Many parties, attorneys and judges perceived ADR as a faster, less expensive, and more creative way to resolve disputes than traditional litigation. ADR also was touted as being more adaptable, in that it could be tailored to the underlying interests of all parties, and potentially more emotionally satisfying.

Between 1990 and 1996, 24 new ADR programs and processes were launched in the district courts of the Ninth Circuit. They included new programs in mediation, arbitration, early neutral evaluation (ENE), summary jury trials, summary bench trials, judicially hosted settlement conferences, and use of private ADR providers. All of these programs allow for greater flexibility, control and participation by the parties.

Recognizing this growing trend, then-Chief Judge Procter Hug, Jr., proposed establishing a new Ninth Circuit Judicial Council Committee on Alternative Dispute Resolution. The

ADR Committee was appointed in December 1997. Its members included circuit judges, district judges, bankruptcy judges, magistrate judges, a district court ADR coordinator, the circuit mediator, and two attorneys, all of whom had experience with ADR.

Senior Circuit Judge Dorothy Nelson was named to chair the fledgling committee. Judge Nelson chairs the Board of Directors of the Western Justice Center, a nonprofit research and development organization dedicated to improving justice and evaluating and replicating new ways to resolve conflicts. She also co-founded the Pasadena Neighborhood Dispute Resolution Center, and subsequent to her committee appointment received the American Bar Association's D'Alemberte/Raven Award for her work in ADR.


Committee Work

One of the first tasks facing the committee was circuit-wide implementation of H.R. 3528, which required that each federal district court authorize the use of some ADR processes in all civil actions, including adversary proceedings in bankruptcy. The ADR programs were intended to be “robust”

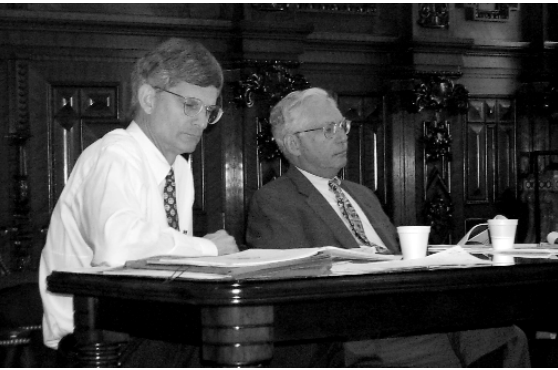
and to go beyond the traditional practice of assigning judges to preside at settlement conferences. The new statute imposed a variety of obligations on the courts, including identification of a specific knowledgeable employee to administer the ADR program, adoption of procedures for selecting neutral parties, adoption of confidentiality rules, and establishment of the compensation rates, if any, for neutrals.

The ADR Committee undertook to develop a comprehensive model local rule for ADR, which would address the statutory requirements and enable courts to select those options which best reflected their local legal culture. Following sustained review and comment, in July 1999 the Judicial Council adopted the committee's proposed model rule.

Since that time, the ADR Committee has focused on assisting courts in developing or expanding their ADR programs to comply with H.R. 3528. Committee members have offered their expertise in working with judges and clerks; have presented programs at the Ninth Circuit Judicial Conference, district conferences, and the Conference of Chief District Judges to enhance judges' and lawyers' awareness



All of these programs allow for greater flexibility, control, and participation by the parties.



Magistrate Judge Wayne Brazil, left, and Chief Circuit Mediator David Lombardi, Esq., attend a meeting of the Alternative Dispute Resolution Committee.

of ADR options and benefits; and have written extensively about the value of ADR.

ADR in the Courts

Within the Ninth Circuit, active ADR programs can be found in district courts of the Northern District of California, the Western District of Washington and the Districts of Idaho and Oregon, the bankruptcy court of the Central District of California, and the Court of Appeals, which has operated a mediation and settlement program for almost 20 years.

With offices in San Francisco and Seattle, the Court of Appeals program relies on experienced and highly qualified attorneys from a variety of practices, who have extensive training in negotiation, appellate mediation and Ninth Circuit practice and procedure. These mediators, who are full-time employees of the circuit, resolve hundreds of appeals each year. Cases are selected for mediation based on a number of factors, including the parties' interest and the likelihood of settlement. The program is not limited to the case that is on appeal; discussions may include additional

parties and related cases in other courts, as well as issues that are not part of any litigation.

The Bankruptcy Mediation Program started by the Central District of California in 1995 is currently touted as the largest federal judicial mediation program in the nation. Managed by Bankruptcy Judge Barry Russell and two clerks, the program boasts 211 mediators who have handled more than 2,000 bankruptcy matters in the last five years.

The mediation program is fully integrated into bankruptcy court operations in the Central District, which has one of the highest weighted caseloads in the nation. Using software developed in-house, court staff can track all matters assigned to the program, monitor the assignments and availability of mediators, and generate a wide range of statistical reports. The program is credited with easing the burden of judges, enabling them to focus on matters truly requiring judicial intervention.

ADR's roots run deep in the Northern District of California. Judges there were among the first to use non-binding arbitration when it became available to the courts in the late 1970s. Since then, the district has steadily expanded the scope of ADR, including the first use of the Early Neutral Evaluation (ENE) process, in which an independent third party evaluates the potential for case settlement. Today, the district offers a "multi-option" ADR program that includes arbitration, mediation, ENE, and settlement conferences. Referral to some type of ADR is now standard practice in the court and one out of every four cases actually makes

use of ADR services.

The Northern District of California has an ADR staff consisting of two attorneys and a program administrator. They manage some 500 volunteer "neutrals," who preside over about 700 mediations, ENEs and arbitrations each year. In addition, the court's magistrate judges conduct about 1,000 settlement conferences per year, either as an early ADR process or prior to trial. Magistrate Judge Wayne Brazil, a nationally recognized expert in ADR and a member of the Ninth Circuit's ADR Committee, is designated to handle administrative issues that may arise during the course of ADR. Assistance also is provided by District Court Judge James Ware, the district court's designated ADR liaison judge.

What's Next for ADR?

At the start of the 21st century, the ADR Committee is poised to explore increased use of ADR methods in new areas of law (such as criminal cases and prisoner and other pro se litigation) and new approaches to dispute resolution (such as greater use of ombudsmen).

To help stimulate this exploration, the committee has proposed the creation of the Robert F. Peckham Award for Excellence in ADR, to be awarded to a judicial employee who has demonstrated innovation and resourcefulness in implementing ADR programs. The award is named for the late judge who, as Chief Judge of the Northern District of California, spearheaded establishment of a vigorous court-based ADR program as early as 1978.

In the meantime, ADR appears here to stay in civil and bankruptcy courts, which report high levels of satisfaction from parties, attorneys and judges.

Capital Habeas Corpus Cases

Capital habeas corpus cases are among the most complex, lengthy and labor-intensive legal proceedings in the federal courts today. Capital habeas corpus petitions challenge imposition of the death penalty based on alleged violations of the constitutional rights of the accused during their trial and/or sentencing. Seven of the nine states within the Ninth Circuit (Arizona, California, Idaho, Montana, Nevada, Oregon and Washington) have death penalty laws, which have generated a growing number of capital habeas corpus cases. Since 1990, capital habeas corpus filings have increased 343 percent in the Ninth Circuit. Our courts have devoted much time and resources to these cases due to the severity of the sentence and the irreparable damage that would result if an innocent person were to be executed.

Most of the capital habeas corpus cases being heard in the federal courts deal with the guilt and penalty findings made in state courts. Petitioners typically claim ineffective assistance of counsel or flaws in the manner in which the trial was conducted. And, since the death penalty is only sought when the charge of murder is accompanied by “extraordinary circumstances,” such as other acts of violence, petitions frequently challenge these aggravated circumstances. Capital habeas cases


are not criminal prosecutions, but civil cases brought either by or on behalf of the inmate.

Managing Capital Habeas Corpus Cases

The surge in capital habeas corpus cases has caused a tremendous drain on judicial resources and court staffing, as well as resulting in a severe shortage of learned legal counsel who can litigate these cases. Although some capital habeas corpus petitioners are represented by federal public defenders, most have private attorneys appointed by the courts pursuant to the Criminal Justice Act of 1964. In the Ninth Circuit, districts with death penalty cases have struggled to find attorneys who are knowledgeable in the relatively arcane area of capital habeas corpus litigation. Many of the attorneys who agreed to work on the early capital habeas cases came from large civil firms and had little or no experience in this form of litigation. The learning curve was large and very expensive as attorneys became versed in this type of law.

To help manage these issues and to address circuit-wide death penalty policy concerns, the Judicial Council of the Ninth Circuit created a Death Penalty Task Force in 1989, and a successor body, the Capital Case Committee, in 1992. The Death Penalty Task Force drafted the first Ninth Circuit Capital Punishment Handbook, which is now in its fourth edition. The handbook contains annotated death penalty and habeas corpus statutory and case law. Moreover, it includes state law summaries of habeas corpus and death penalty law for the seven states in the circuit with capital punishment.

The Ninth Circuit also originated the concept of the death penalty law clerk, who specializes in this area of law and can provide invaluable assistance to the district courts. The Ninth Circuit now has 19 death penalty law clerks, corresponding to the concomitant surge in capital habeas corpus petitions. These positions were funded initially on a year-to-year basis. They became permanent when the program was adopted nationally in 1999.



The surge in capital habeas corpus cases has caused a tremendous drain on judicial resources and court staffing.



In addition to these efforts, the Chief Judge of the Ninth Circuit formed the Task Force to Study Criminal Justice Act (CJA) Expense Variations, which focuses specifically on the financial issues associated with capital habeas corpus cases. The Task Force performed the first scientific research of the factors driving the costs and litigation of these cases. In 1997, the Judicial Conference of the United States addressed CJA capital habeas corpus costs and mandated that any case in which the attorney fees exceeded \$100,000 would have to be budgeted and reviewed by each circuit's judicial council.

In 1998, the Judicial Council for the Ninth Circuit, pursuant to the research findings and recommendations of its CJA Task Force, adopted the proposal to budget all capital habeas corpus cases. A CJA Oversight Committee was created to oversee the implementation of the budgeting and case management procedures and policies, as well as to review individual budgets and make recommendations to the Judicial

Council. All of the Ninth Circuit's district courts with the death penalty have begun the case management and budgeting process.

The Ninth Circuit plans to continue this successful approach and is now in the process of automating the budgeting forms to assist the judges and attorneys in managing these cases.

The Anti-Terrorism and Death Penalty Act

The Anti-Terrorism and Effective Death Penalty Act (AEDPA) of 1996 made major changes to the capital habeas corpus process. The law curbed the federal court's power to review capital habeas corpus cases originating in state courts, and placed restrictions on capital habeas petitions originating in federal courts. Despite its title, those most affected were non-terrorist prisoners in the United States who had been convicted of murder and sentenced to death.

Portions of the AEDPA remain controversial. The law imposed a new one-year statute of limitations on filing a federal capital habeas corpus petition challenging state court proceedings. However, a so-called "opt-in" provision would shorten the statute of limitations to just six months. The provision also would restrict the adjudication of successive claims and set limits on how long federal courts had to decide cases. Federal district courts would have six months in which to make a determination, while federal courts of appeal would have 120 days to review and decide any related appeals. These time

limits are of concern to the federal courts, as they would place possibly unrealistic time restrictions on judges to complete these cases. AEDPA made the "opt-in" provision available only if a state could show that it had provided competent post-conviction legal counsel and afforded speedy due process at the trial and state-level appeals. The attorneys general of many states support AEDPA and the "opt-in" provision because it would likely reduce the time it takes to process capital habeas corpus cases. A number of attorneys general have litigated this "opt-in" provision, including California, Arizona, Washington, and Montana in the Ninth Circuit. Thus far, the federal courts have ruled that none of these states, nor any other state in the nation, has implemented all of the requirements that would result in a successful "opt in" status.

Ninth Circuit's Leadership Role

Today, well over 3,000 inmates are awaiting execution in 38 states having capital punishment. As the largest federal circuit, with the majority of its states having the death penalty, the Ninth Circuit claims almost 25 percent of this death row population. To fairly and expeditiously adjudicate these cases, Ninth Circuit courts implemented the first capital habeas corpus case management and budgeting systems in the nation's federal courts. Today, it is the only circuit whose Judicial Council actively reviews and approves case budgets. While much work remains, the Ninth Circuit has made significant strides and continues to lead the federal courts in this area of the law.

Attorneys Play Important Role In Court Operations

Members of the Bar Association have played an increasingly important role in the administration of justice in the Ninth Circuit. Their service on various circuit committees over the past decade has led to numerous improvements in the functioning of the courts in the western states.

Lawyer representatives are chosen to represent attorneys practicing in each of the Ninth Circuit's 15 districts. Their principal task is to foster open communication between judges and attorneys. They are either nominated by the local bar association and selected by a panel of district judges, or nominated by a panel of district judges and selected by the local bar association. Based on a formula of 1.28

For the annual circuit conference, lawyer representatives put forth a slate of resolutions that are presented during the conference. Judges and lawyers vote separately on each resolution, and a resolution passes only if both a majority of judges and a majority of lawyers approve it. Successful resolutions are then referred to the Judicial Council for implementation.

lawyer representatives per active district judgeship, they numbered 160 in the year 2000.

Lawyer representatives are actively involved in planning the annual Ninth Circuit Judicial Conference, the biennial Conference of Chief District Judges and local district conferences. Nine lawyer representatives along

Among the resolutions approved at the 2000 Judicial Conference were one calling each district to implement a plan to provide for representation of pro se litigants, and another recommending that a magistrate judge be included on the court's Committee on Model Jury Instructions. In previous years, resolutions were submitted on a wide range of topics, from encouraging studies of gender and race bias in the courts to opposing the passing of mandatory minimum sentencing laws.

Attorneys also are represented by the Lawyer Representatives Coordinating Committee (LRCC), a separate committee that coordinates the activities of lawyer representatives. The LRCC also acts as the lawyer representatives' liaison to the Judicial Conference Executive Committee and the Court of Appeals. The LRCC is composed of a chairperson from each of the 15 lawyer representative delegations in the Circuit.



Chief Judge Mary M. Schroeder, middle, and Chief District Judge Marilyn Patel, right, meet with the Northern California Bar Association.

with 10 judges serve each year on the Judicial Conference Executive Committee. At the conference, lawyer representatives also act as facilitators or discussion leaders and have numerous opportunities to interact with judges at various meetings and social events.

In preparation for the Conferences of Chief District Judges, the LRCC has an opportunity to propose agenda topics. Subjects discussed at past meetings have centered on options for lawyer discipline, methods for providing judicial feedback, improving court communications through technology, court community outreach programs, and consistency in local rules.


Other contributions to the federal courts by the LRCC in recent years have included:

- Creation of a committee of lawyers to provide input on judicial vacancy issues at the circuit and district court levels.
- Creation of a “fire brigade” committee to respond to unfair attacks of a judge in the media.
- Creation of a committee to track legislation of importance to the Circuit, such as judicial salaries and proposals to split the Circuit.
- A published survey of district and magistrate judges concerning their preferred pretrial and in-court

procedures and practices.

Attorney support, in particular that of the American Bar Association and the local state bars, was critical in helping to maintain the unity of the circuit in the late 1990s. It was then that some members of Congress who reside in the Pacific Northwest proposed legislation to split the Circuit.

In August 1999, the ABA House of Delegates passed a resolution opposing any legislation that would split the Circuit into adjudicative divisions. The resolution was passed “in view of the absence of evidence to demonstrate adjudicative dysfunction” in the circuit. The resolution was considered by the ABA in response to a request by the White Commission, which was created by Congress to study the structure of the federal appellate system, with particular reference to the Ninth Circuit. The ABA resolution and testimony before Congress by members of the California and the federal Bar proved vital in efforts to keep the Circuit intact.



Over the years, attorney support and input into the administration of the federal courts in the Ninth Circuit has been invaluable.

Over the years, attorney support and input into the administration of the federal courts in the Ninth Circuit has been invaluable. In the future, the Circuit will continue to actively seek the input and advice of lawyer representatives in the functioning of the courts.

Ninth Circuit Committees and Task Forces with Lawyer Members

Alternative Dispute Resolution Committee
Fairness Committee
Advisory Board
Lawyers Representative Coordinating Committee
Executive Committee of the Judicial Conference
Automation Committee
Public Information and Community Outreach Committee
Seattle Space Committee
Task Force on Attorney Discipline

Ninth Circuit Federal Probation System

Probation officers in the Ninth Circuit saw significant increases in their caseloads throughout the 1990s. At the same time, persons under supervision for violation of drug laws were consistently the largest category of offenders.

From 1990 to 2000, the number of persons under supervision by Probation in the Circuit increased nearly 30 percent, with a 208 percent jump in the number of persons under supervision after release from federal prisons. The growth in persons serving terms of supervised release in the '90s resulted from a steady rise in both the number and percentage of convicted defendants sentenced to prison over the last decade. Overall, persons serving terms of supervised release from prisons constituted 69 percent of all persons under supervision in the Circuit in the year 2000, compared to 67 percent a year earlier.

Although the rise in persons received for supervision stemmed from the growth in persons convicted and sentenced, the effect of this increase was tempered by the number of aliens, both legal and illegal, among those convicted. Over the last 10 years, the number of convicted and sentenced legal aliens who were deported has

risen. As a result, both legal and illegal aliens sentenced to supervision now generally are placed on inactive supervision status and deported rather than made to serve terms of supervised release.

The Central District of California (CAC) reported the heaviest probation caseload in the circuit in 2000, with 4,852 persons under supervision. They were followed by Arizona, with 2,465; and Southern District of California, (CAS) with 1,865. Caseload totals were nearly identical to the year before for CAC and CAS, with CAC reporting a negligible .02 percent increase and CAS a 1.4 percent rise. On the other hand, Arizona saw a 7.4 percent increase in its probation caseload.

In the 1990s, the majority of cases under supervision by probation officers were related to arrests for drugs, followed by fraud. In 2000, persons under supervision for violation of drug laws accounted for nearly 40 percent of

all cases. The second largest category reported was fraud, with 20 percent; followed by robbery, at 6 percent. Drug law violations also accounted for the largest percentage of probation cases in 1995, at 30 percent; and were again followed by fraud, at 21 percent; and robbery, at 6 percent.

Reflecting the increase in prosecutions for immigrant smuggling, the number of persons under supervision of Probation for violation of immigration laws grew by nearly 50 percent from 1995 to 2000, with 692 cases reported in 2000. These persons primarily were American citizens who had assisted with bringing illegal immigrants into the country or assisted with their concealment once they had crossed the border.

Cases involving probation imposed by district judges declined by 1 percent in 2000, and those involving probation imposed by magistrate judges decreased 7 percent.

Ninth Circuit Federal Probation System
Persons Under Supervision 1990 - 2000

Persons Under Supervision	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
From Courts	9,959	7,687	6,188	5,766	5,595	-3.0%	-43.8%
From Institutions	4,008	7,055	9,690	11,790	12,336	4.6%	207.8%
Total	13,967	14,742	15,878	17,556	17,931	2.1%	28.4%

Substance Abuse Treatment

Ninth Circuit probation offices spent \$4.3 million on federally funded substance abuse treatment in fiscal year 2000, spending an average of \$666 per offender. Federal offenders receive substance abuse treatment from a variety of sources: private insurance, state programs, local programs, 12-step programs, the Veterans'

Administration, and federally funded substance abuse treatment services. In the Ninth Circuit, 55 percent of offenders with conditions indicating substance abuse received federally funded treatment in FY2000.

Substance abuse conditions reported include use of illegal and legal drugs, alcohol, and legal substances used as inhalants.

Alternatives to Incarceration

As an alternative to more prison time as punishment for parole or supervised release violations, in the 1990s Ninth Circuit probation officers increased the use of intermediate sanctions, such as community service, home confinement, electronic monitoring, a weekend in jail, or fines. Intermediate sanctions also were supplemented with employment counseling, mental health counseling or substance abuse treatment programs.

New Technology

Several new technologies came online for the 1,232 probation officers and staff in the Ninth Circuit in the year 2000, thus cutting down on their

reliance on paperwork and increasing the efficiency and effectiveness of their work. PACTS (Probation and Pretrial Automated Case Tracking System) was implemented on a nationwide basis in 2000 and allowed each district to have access to a national database of case information, including pretrial and investigative reports, photographs of defendants, and access to the FBI's National Crime Information Center.

In 2000, probation officers also gained access to SENTRY, the Bureau of Prisons' database, which enabled tracking of prisoner release dates. In addition, the National Treatment Database also came online in 2000, allowing the Department of Corrections to track the number and costs of substance abuse and mental health programs in each circuit.

Ninth Circuit Probation System
Persons Under Supervision by District 1999 - 2000

District	Referred By United States Courts		Referred By Institutions		1999	2000	Change
	District Judge Probation	Magistrate Judge Probation	Supervised Release	Other	Total Cases	Total Cases	1999-2000
Alaska	69	52	137	4	258	262	1.6%
Arizona	817	205	1,376	67	2,296	2,465	7.4%
C. Calif.	1,106	119	3,398	229	4,851	4,852	0.02%
E. Calif.	235	338	848	91	1,570	1,512	-3.7%
N. Calif.	392	281	918	108	1,730	1,699	-1.8%
S. Calif.	283	56	1,474	52	1,839	1,865	1.4%
Hawaii	89	64	330	14	442	497	12.4%
Idaho	75	23	178	6	249	282	13.3%
Montana	224	15	266	13	506	518	2.4%
Nevada	248	53	703	45	989	1,049	6.1%
Oregon	246	26	629	67	931	968	4.0%
E. Wash.	89	13	279	4	362	385	6.4%
W. Wash.	219	185	861	53	1,285	1,318	2.6%
Guam	54	0	154	7	247	215	-13.0%
N. Mariana Is.	19	0	25	0	28	44	57.1%
Circuit Total	4,165	1,430	11,576	760	17,556	17,931	2.1%

Pretrial Services Cases Surge

The number of Pretrial Services cases activated surged 128 percent from 1990 to 2000. As pretrial services officers collected, verified, and reported information on more defendants, the number of interviews, bail hearings, pretrial services reports, defendants supervised, and defendants detained also rose.

Pretrial Services provides essential service to the courts in the Ninth Circuit by investigating and confirming defendants’ backgrounds and histories to ensure community safety and reduce detention costs. Pretrial Services works closely with the court to assist judges in determining whether or not to release a defendant back into the community pending trial.

Case Activations

In 2000, Pretrial Services in the Ninth Circuit activated 21,574 cases, accounting for one-fourth of the national total. This was a 9 percent increase over the year before and a 128 percent increase from 1990.



Two districts—the Southern District of California and Arizona—accounted for 52 percent of the circuit’s pretrial caseload, with 11,269 cases in 2000. This was due to the high number of cases related to immigration and drug law violations.

Supervision

If defendants are found to be no danger to the community or pose no flight risk, the court may place them under Pretrial Services supervision pending trial. In 2000, 6,144 defendants were placed under supervision of Pretrial and released with special conditions, the most common being referral to a substance abuse treatment and testing program. The other most common release conditions were for referral to mental health counseling, electronic monitoring, house arrest, check-in at a shelter, curfew, and restrictions on possessions of firearms and personal associations.

If a defendant is unable to abide by court ordered conditions of release, the pretrial services officer notifies the

court immediately, and the defendant may be returned to custody for the duration of the pretrial process. By far the most common reason for a defendants’ violation of pretrial conditions was due to sale or possession of drugs. In 51 percent of instances where violations were reported, no action was taken by the court to change the bail status. In 39 percent of instances, bail was revoked and the defendant detained.

Substance Abuse and Mental Health Cases

Of the 6,624 defendants under supervision of Pretrial in the Ninth Circuit in FY2000, 16 percent were substance abuse cases and 4 percent mental health cases. Pretrial Services spent \$1.6 million on substance abuse treatment in FY2000, spending an average of \$1,785 per defendant. Considerably less was spent on mental health treatment, totaling \$90,692, or \$714 per defendant.

Pretrial Services Cases Activated in Ninth Circuit Courts, 1990 - 2000							
Caseload Measure	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
Reports	9,046	12,337	12,746	19,418	21,163	9.0%	133.9%
Interviews	6,727	7,285	7,529	8,334	8,704	4.4%	29.4%
Cases Activated	9,473	12,773	14,967	19,758	21,574	9.2%	127.7%

Pretrial Services Interviews and Types of Bail, 2000

District	Defendant Contact			Written Reports		Total Cases Activated 1999	Total Cases Activated 2000	Change 1999-2000
	Interviewed	Not Interviewed	Refused Interviewed	Prebail	Postbail & Other			
Alaska	174	84	20	272	1	293	278	-5.1%
Arizona	2,130	3,353	234	5,440	183	5,313	5,717	7.6%
C. Calif.	2,299	406	198	2,677	117	2,524	2,903	15.0%
E. Calif.	357	274	383	1,000	10	915	1,014	10.8%
N. Calif.	623	646	11	781	464	1,266	1,280	1.1%
S. Calif.	531	9	5,012	5,469	83	4,654	5,552	19.3%
Hawaii	364	79	41	482	2	406	484	19.2%
Idaho	182	11	0	183	2	227	193	-15.0
Montana	303	83	0	361	8	469	386	-17.7
Nevada	513	52	302	843	21	1,042	867	-16.8
Oregon	377	27	560	937	5	908	964	6.2%
E. Wash.	255	142	33	281	87	298	430	44.3%
W. Wash.	419	857	9	1,270	11	1,137	1,285	13.0%
Guam	134	20	20	111	24	220	174	-20.9%
N. Mariana Is.	43	4	0	35	3	86	47	-45.3%
Circuit Total	8,704	6,047	6,823	20,142	1,021	19,758	21,574	9.2%
National Total	62,654	13,944	9,274	76,280	6,114	79,936	85,872	7.4%
Circuit % of National	13.9%	43.4%	73.6%	26.4%	16.7%	24.7%	25.1%	0.4%

Tribal Rights and Sovereignty

The United States Courts for the Ninth Circuit have been the venue for many important legal cases affecting native peoples of the western states. In recent years, some of the most challenging cases have involved questions of tribal rights and sovereignty for native Alaskans and Hawaiians. The Supreme Court of the United States ultimately decided several of these cases.

Native Alaskans have been striving toward land use and tribal court independence, while native Hawaiians have focused on a return to complete self-governance. Neither group has been accorded the rights granted tribes of Native American Indians in the contiguous United States. While the federal government has

created a few reservations for native Alaskans, they are relatively few in number and extremely small. The vast majority of native Alaskans live outside of reservations. They are governed both by state and federal authorities since their villages are not explicitly deemed “Indian Country.” Native Alaskans have challenged this assertion, noting that “Indian Country” is defined not only as reservations and allotments, but also as Indian communities.



In the courts, issues of Alaskan Native sovereignty arose most prominently in *Native Village of Venetie v. Alaska*. In this 1987 case, the District Court of Alaska ruled that the natives of two villages were a sovereign tribe. However, the district court also decided that Venetie was not “Indian Country” and thus was subject to both federal and state law. Nearly a decade later the case reached the Ninth Circuit Court of Appeals, which ruled in 1996 that the tribe constituted “Indian Country” and thus retained some element of self-rule. However, the case was further appealed to the U.S. Supreme Court, which issued its ruling in early 1998, reversing the appeals court and upholding the district.


Many of the native Alaskan tribes currently have tribal courts of their own. The U.S. Supreme Court established the sovereignty of tribal courts in the benchmark case *National Farmers Union Insurance Co. v. Crow Tribe of Indians*, in which the Court decided that litigation within a tribe needs to exhaust all tribal court remedies before proceeding to the federal courts. However, within the last decade, the Ninth Circuit Court of Appeals decided that tribal remedy exhaustion is not required until the status of a tribe can be determined. The opinion has left uncertainty about the legitimacy of tribal courts established by tribes whose status has yet to be determined.

Perhaps the most widely known case in the Hawaiian sovereignty movement in the last ten years is **Rice v. Cayetano**. The 1998 case involved a challenge to a state law that allowed only native Hawaiians to vote for certain elective offices in state government. The plaintiff, a non-native Hawaiian, alleged that, in the absence of recognized tribes and designated reservations in Hawaii, the restriction violated the Fourteenth and Fifteenth Amendments to the U.S. Constitution and the Voting Rights Act of 1965. While the District Court of Hawaii and the Ninth Circuit Court of Appeals upheld the law, the U.S. Supreme Court reversed it, allowing non-native Hawaiians to vote as well. A subsequent related case, *Arakaki, et al. v. State of Hawaii, et al*, involved a challenge to a law allowing only native Hawaiians to serve in certain elected

positions within state government. Relying on the Supreme Court precedent set in *Rice v. Cayetano*, the district court ruled that non-native Hawaiians also could seek election to these positions.

In another arena of native Hawaiian rights, the Office of Hawaiian Affairs filed a lawsuit against the Department of Education, alleging that failure to provide sufficient Hawaiian language instruction in public schools was a violation of applicable state law, the Native American Languages Act, and the First and Fourteenth Amendments. After the state court in Hawaii found for the defendants, the case moved to federal district court in 1996. The court found that the state Department of Education was immune under the Eleventh Amendment, and remanded the case back to state court.

Other state court cases have determined issues of native Hawaiian self-governance, land rights, and cultural preservation. A 1992 case, *Pele Defense Fund v. Paty*, led the Supreme Court of Hawaii to reverse a lower court decision allowing the exchange of public lands “ceded” for use by native Hawaiians. The case legitimized many of the grievances of Hawaiian natives and granted them broader rights to appear before courts to protect their property. Over the next four years, the Supreme Court of Hawaii considered three more cases related to land use rights, ruling on behalf of native Hawaiians.



Native Alaskans have been striving toward land use and tribal court independence, while native Hawaiians have focused on a return to complete self-governance.

Pro Se Filings in the Court of Appeals

Pro se appeals, which involve cases in which litigants represent themselves without legal counsel, have increased by nearly 83 percent over the last decade. In the year 2000, pro se appeals accounted for nearly 40 percent of all appeals filed in the Ninth Circuit.

The trend was recognized early on by the Ninth Circuit, which, in 1992, established a Pro Se Unit within the Office of Staff Attorneys. The Pro Se Unit reviews all pro se filings and processes cases through the Court of Appeals. Staff attorneys provide general assistance in unusual or difficult pro se cases, and assist litigants in finding **pro bono** legal representation when appropriate.

Pro se cases often involve fewer and less complex issues and generally are resolved faster than those cases with counsel. However, litigants who choose to serve as their own attorneys in federal court impose special demands on court staff. Pro se litigants generally require much more assistance from both court staff and judges than do litigants represented by attorneys.



Litigants who choose to serve as their own attorneys in federal court impose special demands on court staff.

From 1993 to 2000, pro se appeals rose nearly 30 percent in the Ninth Circuit, while at the same time, total filings in the court of appeals rose by only 10.4 percent. A significant number of pro se cases—averaging about 40 percent over the last 10 years—are private prisoner petitions. The most common prisoner petitions are habeas corpus, civil rights, sentence, or prison condition cases.

Acts Affect Rate of Prisoner Petition

Filings The Antiterrorism and Effective Death Penalty Act (AEDPA), signed into law in April 1996, significantly restricted procedures for state and federal prisoners' filing of habeas appeals. The AEDPA was intended to decrease the expense and time to the Judiciary of processing these types of pro se cases. Major provisions in the AEDPA include a one-year deadline for filing habeas petitions, a limit on successive petitions, and restrictions on review of state prisoner petitions if a claim was adjudicated on the merits in a state court.

Also signed into law in 1996 was the Prison Litigation Reform Act (PLRA). This Act changed almost every aspect of federal court procedures for non-habeas prisoner litigation, including procedures for filing and reviewing **in forma pauperis** (IFP) complaints, and court-ordered remedial relief for prison conditions. The law was designed to limit a prisoner's ability to file IFP complaints that might be frivo-

lous, malicious or untrue. The prisoner amendments limited prospective relief in prison condition cases, required prisoners generally to pay a full filing fee, and limited the filing of new cases by inmates who have had prior cases dismissed.

Following enactment of AEDPA and PLRA, private prisoner petitions in the Ninth Circuit declined slightly—by 12 percent—in 1997. They rose again in 1998 by 10 percent but experienced negligible increases in subsequent years—.3 percent in 1999 and 2 percent in 2000.

Original Proceedings

Pro se appeals that were original proceedings rose markedly after 1996, when AEDPA required habeas corpus petitioners to first seek permission in the court of appeals before filing their petitions in the district court. Original proceedings in the Circuit rose 639 percent between 1996 and 2000—from 66 filings in 1996 to 488 in 2000.

Administrative Appeals

Pro se administrative appeals, many of them arising out of immigration cases, increased after enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The Act made numerous changes to immigration laws, including restricted authority of federal courts to review agency orders of deportation of criminal aliens. Pro se administrative appeals rose by 419 percent in the Ninth Circuit between 1996 and 2000.

Statistical Caseload Charts

Court of Appeals

District Courts

Bankruptcy Courts

Magistrate Judges

Federal Public Defenders

Court Interpreter Use

Juror Utilization

Judicial Misconduct and Disability

District by District Caseloads

3



Court of Appeals

Table 1
Appellate Caseload Profile, 1990 - 2000

Caseload Measure	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
Filings	6,725	8,646	8,559	9,627	9,542	-0.9%	41.9%
Terminations	5,544	8,807	8,515	8,352	9,437	13.0%	70.2%
Pending Cases	8,102	7,564	7,521	9,589	9,694	1.1%	19.6%

Table 2
Source of Appeals and Original Proceedings, 2000

District	Appeals	% of Total
Alaska	109	1.1%
Arizona	711	7.5%
C. Calif.	2,275	23.8%
E. Calif.	789	8.3%
N. Calif.	890	9.3%
S. Calif.	648	6.8%
Hawaii	175	1.8%
Idaho	109	1.1%
Montana	130	1.4%
Nevada	506	5.3%
Oregon	431	4.5%
E. Wash.	174	1.8%
W. Wash.	540	5.7%
Guam	34	0.4%
Northern Mariana Islands	20	0.2%
Bankruptcy	283	3.0%
United States Tax Court	80	0.8%
National Labor Relations Board	34	0.4%
Administrative Agencies	985	10.3%
Original Proceedings	619	6.5%
Circuit Total	9,542	

Table 3
Filings, Terminations, and Pending Cases by Appeal Type, 2000

Type of Appeal	Filings	% of Circuit Total	Terminations	Pending as of 12/31/00
Civil				
U.S. Prisoner Petitions	816	8.6%	617	716
Private Prisoner Petitions	1,861	19.5%	1,717	1,421
U.S. Civil	673	7.1%	704	770
Private Civil	2,379	24.9%	2,231	2,922
Criminal	1,812	19.0%	1,796	2,149
Other				
Bankruptcy	283	3.0%	323	323
Administrative Appeals	1,099	11.5%	1,517	1,204
Original Proceedings	619	6.5%	532	189
Circuit Total	9,542		9,437	9,694
National Appellate Total	55,623		56,275	41,422
Ninth Circuit as % of National Total	17.2%		16.8%	23.4%

Table 4
Median Time Intervals in Cases Terminated After Hearing or Submission, By Circuit, 2000

Circuit	From Filing of Notice of Appeal to Filing Last Brief		From Filing of Last Brief to Hearing or Submission		From Hearing to Final Disposition		From Submission to Final Disposition		From Filing of Appeal to Final Disposition		Lower Court to Final Disposition in Appellate Court	
	Cases	Months	Cases	Months	Cases	Months	Cases	Months	Cases	Months	Cases	Months
D.C.	185	6.8	313	2.7	263	2.1	323	0.6	380	7.6	380	22.6
1st	510	6.4	539	2.0	349	2.5	519	0.9	742	10.4	742	27.1
2nd	1,287	4.6	1,319	2.9	1,112	0.5	764	0.2	1,624	8.9	1,624	29.7
3rd	1,093	5.7	1,133	2.3	449	2.7	1,227	1.8	1,398	10.7	1,398	27.4
4th	1,111	4.5	1,169	2.9	516	2.4	1,935	0.4	1,999	7.5	1,999	20.0
5th	2,605	5.8	2,680	3.6	1,134	1.6	2,839	0.6	3,360	10.5	3,360	24.0
6th	1,855	6.2	1,926	6.4	1,038	2.4	1,516	1.4	2,170	15.1	2,170	30.7
7th	1,055	4.6	1,103	2.8	810	3.0	850	0.4	1,413	10.2	1,413	25.2
8th	1,183	3.9	1,222	5.2	646	2.6	1,191	0.3	1,510	10.7	1,510	25.5
9th	2,856	5.7	3,295	6.6	1,850	1.6	2,883	0.3	3,644	15.7	3,644	30.2
10th	1,210	5.0	1,240	4.3	556	3.1	966	1.2	1,336	11.5	1,336	27.1
11th	2,877	5.2	2,920	3.8	841	2.0	2,985	1.2	3,333	11.3	3,333	27.9

Table 5
Median Time Intervals 1999 - 2000

By Stage of Appeal	Number of Months			
	Ninth Circuit		National	
	1999	2000	1999	2000
From Notice of Appeal to Filing Last Brief	5.6	5.7	5.6	5.4
From Filing Last Brief to Hearing or Submission	6.1	6.6	4.3	4.1
From Hearing to Final Disposition	1.6	1.6	2.0	2.1
From Submission to Final Disposition	0.1	0.3	0.7	0.6
From Filing of Notice of Appeal to Final Disposition	14.6	15.7	12.0	11.5
From Filing in Lower Court to Final Disposition in Appellate Court	30.4	30.2	27.3	26.9

District Courts

Table 6
Total Criminal and Civil Cases Filed, Terminated, and Pending 1990 - 2000

Caseload Measure	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
Civil Filings	30,380	34,194	38,045	44,549	44,711	0.4%	47.2%
Criminal Filings	9,560	11,400	11,922	14,493	15,100	4.2%	57.9%
Total Filings	39,940	45,594	49,967	59,042	59,811	1.3%	49.8%
Civil Terminations	30,215	34,271	37,701	39,856	39,733	-0.3%	31.5%
Criminal Terminations	8,408	10,677	11,256	14,222	14,024	-1.4%	66.8%
Total Terminations	38,623	44,948	48,957	54,078	53,757	-0.6%	39.2%
Pending Civil Cases	33,111	31,171	33,339	39,136	44,114	12.7%	33.2%
Pending Criminal Cases	8,863	7,313	7,074	9,587	10,663	11.2%	20.3%
Total Pending Cases	41,974	38,484	40,413	48,738	54,777	12.4%	30.5%
Civil Case Termination Index (in months)	13.2	10.9	10.6	11.8	13.3	12.7%	0.8%
Criminal Case Termination Index (in months)	12.6	8.2	7.5	8.1	9.1	12.3%	-27.8%
Overall Case Termination Index	13.0	10.3	9.9	10.8	12.2	13.0%	-6.2%
Median Months (filing to disposition) Civil	8.0	7.0	7.0	8.0	8.8	10.0%	10.0%
Median Months (filing to disposition) Criminal	4.5	4.8	4.9	5.2	5.2	0.0%	15.6%

Table 7

Ninth Circuit District Court - Types of Criminal Cases Commenced, 2000 (excludes Transfer Cases)

General Offenses	Alaska	Arizona	C. Calif.	E. Calif.	N. Calif.	S. Calif.	Hawaii	Idaho	Montana	Nevada	Oregon	E. Wash.	W. Wash.	Guam	N. Mariana Is.	Total
Homicide	0	97	4	0	3	1	1	4	11	2	2	3	3	1	0	132
Robbery	2	16	94	13	25	26	16	8	5	32	54	17	25	0	0	333
Assault	4	31	14	7	13	28	5	4	17	8	5	0	98	0	1	235
Burglary	2	2	0	1	1	0	2	0	5	0	0	0	0	0	0	13
Larceny	30	85	94	35	70	20	49	7	18	11	41	19	241	5	2	727
Embezzlement	11	6	20	19	28	22	8	5	7	24	20	2	47	1	2	222
Fraud	18	122	327	191	167	378	29	20	34	78	70	29	122	18	7	1,610
Weapons & Firearms	13	113	92	36	115	13	3	14	23	78	80	34	32	6	3	655
Forgery & Counterfeiting	12	19	66	3	10	8	9	1	5	12	17	19	6	1	0	188
Drug Laws	71	789	183	99	112	1,525	140	21	90	75	180	137	195	32	11	3,660
Traffic	5	8	2	9	63	0	167	7	155	0	0	1	260	0	0	677
Escape	0	19	7	15	6	24	0	1	2	15	4	5	6	0	1	105
Other	13	87	69	33	45	15	23	8	46	11	13	25	116	4	3	511
General Offenses Total	181	1,394	972	461	658	2,060	452	100	418	346	486	291	1,151	68	30	9,068
Special Offenses																
Immigration Laws	18	1,813	235	427	321	1,857	22	34	16	152	286	156	37	15	0	5,389
Agricultural Acts	9	15	6	14	4	5	0	9	29	6	7	7	0	2	0	113
Postal Laws	0	2	8	3	3	0	0	0	1	0	4	0	6	0	0	27
Other	11	41	75	29	67	47	7	6	8	12	9	5	30	5	1	353
Special Offenses Total	38	1,871	324	473	395	1,909	29	49	54	170	306	168	73	22	1	5,882
All Offenses Total	219	3,265	1,296	934	1,053	3,969	481	149	472	516	792	459	1,224	90	31	14,950

Table 8

Weighted and Unweighted Filings Per Authorized Judgeship, 2000

District	Unweighted Filings Per Judgeship				Weighted Filings Per Judgeship				
	Authorized Judgeships	Civil	Criminal	Total	Civil	Criminal	2000 Weighted Total	1999 Weighted Total	Change 1999-2000
Alaska	3	152	69	221	141	104	245	326	-24.8%
Arizona	12	266	323	589	229	392	621	655	-5.2%
C. Calif.	27	578	72	650	384	111	495	497	-0.4%
E. Calif.	7	681	166	847	474	211	685	619	10.7%
N. Calif.	14	415	80	495	401	113	514	507	1.4%
S. Calif.	8	321	559	880	291	706	997	1,018	-2.1%
Hawaii	4	204	125	329	226	223	449	414	8.5%
Idaho	2	370	77	447	334	110	444	409	8.6%
Montana	3	242	135	377	213	213	426	455	-6.4%
Nevada	7	314	90	404	296	117	413	562	-26.5%
Oregon	6	394	153	547	340	204	544	519	4.8%
E. Wash.	4	173	112	285	135	146	281	235	19.6%
W. Wash.	7	416	97	513	400	149	549	527	4.2%
Circuit Total	104	4,526	2,058	6,584	3,864	2,799	6,663	6,743	-1.2%
Circuit Mean	***	348	158	506	297	215	513	519	-1.2%
Circuit Median	***	321	97	495	296	149	495	507	-2.4%

Table 9
Ninth Circuit Court of Appeals and District Court Senior Judge Activity, 1990 - 2000

Senior Judge Activity	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
Court of Appeals							
Case Hearings	585	791	1,223	1,707	1,662	-2.6%	184.1%
Submitted on Briefs	441	1,313	1,549	2,563	2,368	-7.6%	437.0%
Other Appeals	156	357	426	1,293	1,550	19.9%	893.6%
District Court Trials	450	520	411	434	473	9.0%	5.1%

Bankruptcy Courts

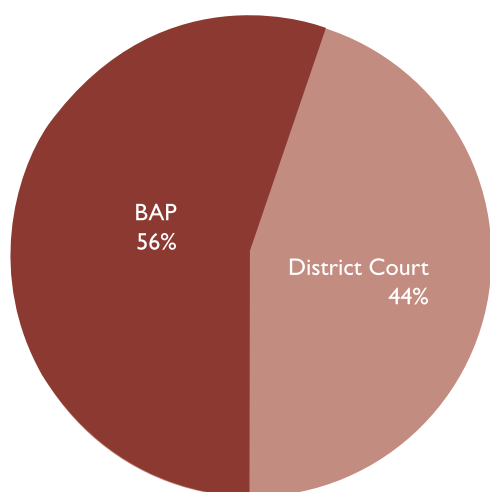
Table 10
Total Cases Filed, Terminated, and Pending 1990 - 2000

Caseload Measure	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
Filings							
Business Ch. 7	7,693	10,579	9,982	6,840	5,059	-26.0%	-34.2%
Business Ch. 11	3,827	4,385	2,443	1,422	1,540	8.3%	-59.8%
Business Ch. 13	2,475	3,220	3,742	2,006	1,808	-9.9%	-26.9%
Non-Business Ch. 7	119,566	159,028	204,902	220,586	187,797	-14.9%	57.1%
Non-Business Ch. 11	943	1,212	322	163	159	-2.5%	-83.1%
Non-Business Ch. 13	35,099	41,567	50,899	52,807	47,189	-10.6%	34.4%
Other	499	198	132	97	83	-14.4%	-83.4%
Total	170,102	220,189	272,422	283,921	243,635	-14.2%	43.2%
Terminations	157,358	235,475	262,103	300,678	258,306	-14.1%	64.2%
Pending Cases	222,447	261,155	225,409	213,979	199,308	-6.9%	-10.4%

Table 11
Bankruptcy Appeals Filed 1999 and 2000

District	1999			2000		
	BAP	District Court	Total	BAP	District Court	Total
Alaska	5	11	16	1	19	20
Arizona	84	87	171	41	50	91
C. Calif.	273	115	388	254	144	398
E. Calif.	59	25	84	38	25	63
N. Calif.	102	62	164	86	66	152
S. Calif.	38	37	75	51	44	95
Hawaii	3	3	6	6	4	10
Idaho	9	8	17	3	12	15
Montana	3	11	14	7	6	13
Nevada	26	13	39	18	31	49
Oregon	30	37	67	20	10	30
E. Wash.	3	4	7	6	2	8
W. Wash.	43	39	82	30	28	58
Total	678	452	1,130	561 (56%)	441 (44%)	1,002

Bankruptcy Appeals in the Ninth Circuit
2000



Magistrate Judges

Table 12

Ninth Circuit Misdemeanor Defendants Disposed Of and Civil Cases Terminated by U.S. Magistrate Judges, Fiscal Years 1990 - 2000

District	Civil Cases Terminated Pursuant to Section 636 (C)							Misdemeanor, Petty Offense Defendants Disposed*				
	1990	1993	1996	1999	2000	Change 1999-2000	Change 1990-2000	1990	1993	1996	1999	2000*
Alaska	2	1	1	1	1	0.0%	-50.0%	109	130	422	313	8
Arizona	8	16	35	65	144	121.5%	1,700.0%	238	303	2,474	5,146	7,021
C. Calif.	88	148	177	320	438	36.9%	397.7%	54	24	2,799	2,842	1,368
E. Calif.	54	80	97	276	336	21.7%	522.2%	146	215	2,226	1,764	2,209
N. Calif.	51	92	264	344	544	58.1%	966.7%	250	163	1,404	3,096	937
S. Calif.	36	39	11	86	58	-32.6%	61.1%	555	652	2,678	3,140	191
Hawaii	2	36	50	32	54	68.8%	2,600.0%	1,518	1,809	952	964	621
Idaho	39	53	80	68	91	33.8%	133.3%	8	10	66	258	353
Montana	38	71	101	140	127	-9.3%	234.2%	n/a	10	368	153	125
Nevada	3	24	22	33	47	42.4%	1,466.7%	12	11	670	778	1,059
Oregon	487	137	270	250	188	-24.8%	-61.4%	20	10	463	820	463
E. Wash.	109	127	86	73	87	19.2%	-20.2%	12	9	12	140	184
W. Wash.	72	140	136	120	107	-10.8%	48.6%	1,028	645	2,387	2,453	1,101
Circuit Total	989	964	1,330	1,808	2,222	22.9%	124.7%	3,950	3,991	16,921	21,867	15,640

*The number of misdemeanor, petty offense defendants for 2000 differs greatly from 1999 and prior years because the methods of reporting the data changed. Prior to 2000, petty offenses were reported to the Administrative Office of the United States Courts (AO) by both the magistrate judges themselves and the Central Violations Bureau (CVB), an agency in San Antonio, Texas that processes certain violation notices. It appeared that a significant number of matters were being reported doubly. To remedy this situation, the AO began requiring that the magistrate judges not report the cases already covered by the CVB in their monthly statistical reports in 2000. Therefore, the numbers for fiscal year 2000 appear much lower than in previous years, though it is merely because of the new reporting procedures. Because of the changes, the number of misdemeanor, petty offense cases for 2000 are not compared to previous years, as it would not indicate an accurate portrayal of the workload fluctuations.

Federal Public Defenders

Table 13
Cases Opened, Closed, and Pending, Fiscal Years 1990 - 2000

Cases	Calendar Year					Change 1999-2000	Change 1990-2000
	1990	1993	1996	1999	2000		
Opened	15,127	15,625	16,847	21,783	23,612	8.4%	56.1%
Closed	14,738	15,671	16,415	20,963	23,035	9.9%	56.3%
Pending	4,390	4,379	5,460	7,311	7,883	7.8%	79.6%

Table 14
Cases Opened, Closed, and Pending by District, Fiscal Year 2000

District	Opened	Closed	Pending 9/30/00
Alaska	290	281	103
Arizona	4,931	4,879	755
C. Calif.	2,657	2,621	1,320
E. Calif.	2,421	2,478	767
N. Calif.	1,158	1,062	621
*S. Calif.	6,135	5,889	1,597
**Guam	200	189	97
Hawaii	678	631	377
*Idaho	165	167	84
*Montana	401	349	211
Nevada	1,108	1,124	546
Oregon	1,317	1,187	778
*E. Wash.	549	514	186
W.Wash.	1,602	1,664	441
Circuit Total	23,612	23,035	7,883
National Total	68,530	66,526	26,463
Circuit Total as % of National Total	34.5%	34.6%	29.8%

*Community Defender agencies included

**The Districts of Guam and the Northern Mariana Islands currently receive services from the Public Defender's Office in the District of Hawaii. No specific information available for the Northern Mariana Islands

Court Interpreter Use

Table 15
Court Interpreters: Language by District Usage, Fiscal Year 2000

Language	Number of Interpreter Uses*															Total
	Alaska	Arizona	CAC	CAE	CAN	CAS	Guam	Hawaii	Idaho	Montana	Nevada	N. Mariana Is.	Oregon	WAE	Guam	
Arabic	0	6	77	120	19	0	0	0	0	0	3	0	7	0	8	240
Armenian	0	0	118	135	0	0	0	0	0	0	0	0	0	0	0	253
Cantonese	0	12	101	5	269	1	11	6	0	0	31	0	0	0	16	452
Farsi	0	2	47	7	17	0	0	0	0	0	0	0	0	0	0	73
Japanese	0	3	16	2	18	2	6	41	0	0	8	0	0	0	0	96
Korean	1	0	118	0	37	30	34	8	0	0	1	1	2	32	33	297
Mandarin	0	16	273	0	93	40	63	77	0	0	29	6	0	0	9	606
Navaho	0	112	0	0	0	0	0	0	0	0	0	0	0	0	0	112
Russian	0	10	46	12	77	37	0	0	0	0	1	0	0	0	9	192
Sign	0	5	84	0	2	19	0	0	0	0	0	0	0	0	1	111
Spanish	12	26,417	6,062	2,840	2,782	18,779	0	180	139	385	1,019	0	737	729	699	60,780
Tagalog	0	0	24	3	31	6	32	10	0	0	0	2	0	0	0	108
Thai	0	0	17	4	26	0	0	0	0	0	0	0	0	0	26	73
Vietnamese	0	4	79	28	187	3	6	23	0	0	14	0	34	1	101	480
**All Other	14	60	133	47	109	66	20	21	0	0	47	3	7	0	34	561
Total	27	26,647	7,195	3,203	3,667	18,983	172	366	139	385	1,153	12	787	762	936	64,434

*Interpreter Uses are calculated per event. These numbers do not indicate multiple interpreters, when in the same language, nor do they illustrate the translation services for documents, individual orientations, group orientation workshops, or telephone interpreting.

**Languages not used more than fifty (50) times are included in this category.

Juror Utilization

Table 16
Juror Utilization 1990 - 2000

District	Grand Juries Empaneled, 2000		Petit Juror Utilization Rate						
			% Not Serving, Selected, or Challenged (NSSC)*					Change 1999-2000	Change 1990-2000
			1990	1993	1996	1999	2000		
Alaska	1	17	55.1%	44.3%	36.1%	45.0%	45.3%	0.7%	-17.8%
Arizona	11	118	28.5%	33.2%	35.3%	40.7%	48.1%	18.2%	68.8%
C. Calif.	31	210	25.9%	22.9%	33.3%	32.9%	55.6%	69.0%	114.7%
E. Calif.	7	85	29.3%	30.8%	26.8%	26.2%	36.2%	38.2%	23.5%
N. Calif.	16	94	37.0%	35.6%	42.7%	33.2%	39.6%	19.3%	7.0%
S. Calif.	10	255	41.2%	38.5%	36.1%	48.8%	45.2%	-7.4%	9.7%
Hawaii	5	27	23.0%	31.2%	27.9%	39.1%	40.6%	3.8%	76.5%
Idaho	9	30	21.1%	37.3%	23.6%	19.2%	21.2%	10.4%	0.5%
Montana	3	41	33.8%	32.4%	35.7%	49.4%	39.6%	-19.8%	17.2%
Nevada	5	65	22.0%	29.7%	35.6%	37.6%	36.8%	-2.1%	67.3%
Oregon	10	75	16.0%	6.6%	6.9%	11.3%	10.0%	-11.5%	-37.5%
E. Wash.	3	18	32.2%	22.0%	33.8%	42.6%	36.8%	-13.6%	14.3%
W. Wash.	5	53	31.2%	26.5%	32.8%	34.9%	30.2%	-13.5%	-3.2%
Guam	2	12	34.5%	48.9%	31.6%	42.9%	35.5%	-17.2%	2.9%
N. Mariana Is.	2	6	63.0%	38.3%	36.6%	18.4%	19.3%	4.9%	-69.4%
Circuit Total	120	1,106	***	***	***	***	***	***	***
Circuit Average	8	74	30.5%	30.1%	31.7%	34.8%	36.0%	3.4%	18.0%
National Average	9	85	33.7%	33.3%	34.1%	35.5%	37.7%	6.2%	11.9%

*The U.S. Judicial Conference has established a standard of 30 percent NSSC to evaluate a district's jury management.

Judicial Misconduct and Disability

Table 17
Disposition of Complaints, 2000

	Circuit Judge	District Judge	Magistrate Judge	Bankruptcy Judge
Dismissed-Directly Related to the Merits of the Case	23	63	18	4
Dismissed-Not in Conformance with Statute	2	19	4	4
Dismissed-Frivolous	32	85	23	5
Dismissed-Other	2	8	3	
Public Reprimand		2		

Table 18
Sources of Complaints Against Judges, 2000

	Circuit Judge	District Judge	Magistrate Judge	Bankruptcy Judge	Totals
Prisoner Litigant	18	33	9		60
Other Litigant	22	62	14	9	107
Attorney		3			3
Officer of the Court		1			1
Other	1	12	3		16
Totals	41	111	26	9	187

In October, November, and December of 2000, 27 complaints of misconduct were filed against 41 judges: eight by prisoner litigants, 14 by other litigants, two by attorneys, and three by other complainants.

Note: the figures contained in these tables may not add up to the totals mentioned here because a single complaint may include multiple charges against multiple judges and may be dismissed on multiple grounds.

In calendar year 2000, 113 complaints of judicial misconducts were filed. This figure is in line with totals for the past several years. Thirty-four complaints were from prisoner litigants, 66 from other litigants, three from attorneys, one from an officer of the court, and nine from other complainants. The council issued a public reprimand in two complaints that were consolidated for investigation.

District by District Caseloads



District by District Caseloads

District of Alaska				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	976	702	-28.1%	234
Terminations	784	745	-5.0%	248
Pending	823	780	-5.2%	260
Bankruptcy Court				
Filings	1,492	1,419	-4.9%	710
Terminations	1,367	1,472	7.7%	736
Pending	1,691	1,638	-3.1%	846
Authorized Judgeships				
District	3			
Senior	2			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	4			

District of Arizona				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	6,311	6,614	4.8%	551
Terminations	6,440	6,041	-6.2%	503
Pending	4,665	5,238	12.3%	437
Bankruptcy Court				
Filings	22,609	20,955	-7.3%	2,328
Terminations	24,145	20,470	-15.3%	2,274
Pending	23,849	24,334	2.0%	2,704
Authorized Judgeships				
District	12			
Senior	7			
Bankruptcy	9			
Magistrate				
Full time	9			
Part-time	0			

Central District of California				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	17,223	17,499	1.6%	648
Terminations	13,187	14,028	6.4%	520
Pending	14,976	18,447	23.2%	683
Bankruptcy Court				
Filings	102,422	80,782	-21.1%	3,847
Terminations	111,702	88,938	-20.4%	4,235
Pending	51,689	43,533	-15.8%	2,073
Authorized Judgeships				
District	27			
Senior	11			
Bankruptcy	21			
Magistrate				
Full time	16			
Part-time	2			

Eastern District of California

Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	5,155	5,804	12.6%	829
Terminations	4,703	5,220	11.0%	746
Pending	5,431	6,015	10.8%	859
Bankruptcy Court				
Filings	34,750	29,756	-14.4%	3,720
Terminations	35,635	32,257	-9.5%	4,032
Pending	23,949	21,448	-10.4%	2,681
Authorized Judgeships				
District	7			
Senior	5			
Bankruptcy	8			
Magistrate				
Full time	8			
Part-time	3			

Northern District of California

Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	7,622	7,807	-0.7%	506
Terminations	7,171	6,380	-11.0%	456
Pending	6,090	6,797	11.6%	486
Bankruptcy Court				
Filings	26,564	19,562	-26.4%	2,174
Terminations	29,623	22,176	-25.1%	2,464
Pending	27,304	24,690	-19.6%	2,743
Authorized Judgeships				
District	14			
Senior	7			
Bankruptcy	9			
Magistrate				
Full time	8			
Part-time	1			

District of Idaho				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	758	911	20.2%	456
Terminations	722	806	11.6%	403
Pending	775	880	13.5%	440
Bankruptcy Court				
Filings	7,285	7,119	-2.3%	3,560
Terminations	6,995	7,966	13.9%	3,983
Pending	8,557	7,710	-9.9%	3,855
Authorized Judgeships				
District	2			
Senior	0			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	0			

District of Guam				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	234	161	-31.2%	161
Terminations	206	159	-22.8%	159
Pending	194	196	1.0%	196
Bankruptcy Court				
Filings	131	155	18.3%	155
Terminations	91	69	-24.2%	69
Pending	166	252	51.8%	252
Authorized Judgeships				
District	1			
Senior	0			
Bankruptcy	0			
Magistrate				
Full time	0			
Part-time	0			

District of Hawaii

Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	1,478	1,312	-11.2%	328
Terminations	2,230	1,394	-37.5%	349
Pending	1,680	1,598	-4.9%	400
Bankruptcy Court				
Filings	5,426	4,549	-16.2%	4,549
Terminations	5,851	4,562	-22.0%	4,562
Pending	2,835	2,822	-0.5%	2,822
Authorized Judgeships				
District	4			
Senior	2			
Bankruptcy	1			
Magistrate				
Full time	3			
Part-time	1			

District of Idaho

Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	758	911	20.2%	456
Terminations	722	806	11.6%	403
Pending	775	880	13.5%	440
Bankruptcy Court				
Filings	7,285	7,119	-2.3%	3,560
Terminations	6,995	7,966	13.9%	3,983
Pending	8,557	7,710	-9.9%	3,855
Authorized Judgeships				
District	2			
Senior	0			
Bankruptcy	2			
Magistrate				
Full time	2			
Part-time	0			

District of Montana				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	1,028	1,227	19.4%	409
Terminations	1,208	1,116	8.6%	372
Pending	1,010	1,121	11.0%	374
Bankruptcy Court				
Filings	3,386	3,336	-1.5%	1,668
Terminations	3,512	3,585	2.1%	1,793
Pending	3,028	2,779	-8.2%	1,390
Authorized Judgeships				
District	3			
Senior	2			
Bankruptcy	2			
Magistrate				
Full time	3			
Part-time	1			

District of Nevada				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	3,255	2,825	-13.2%	404
Terminations	3,037	2,865	-5.7%	409
Pending	3,048	3,008	-1.3%	430
Bankruptcy Court				
Filings	14,743	14,010	-5.0%	3,503
Terminations	13,545	13,185	-2.7%	3,296
Pending	18,882	19,707	4.4%	4,927
Authorized Judgeships				
District	7			
Senior	2			
Bankruptcy	4			
Magistrate				
Full time	4			
Part-time	0			

District of Northern Mariana Islands				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	111	68	-38.7%	68
Terminations	114	103	-9.6%	103
Pending	99	64	-35.4%	64
Bankruptcy Court				
Filings	12	15	25.0%	15
Terminations	14	8	-42.9%	8
Pending	31	38	-22.6%	38
Authorized Judgeships				
District	1			
Senior	0			
Bankruptcy	0			
Magistrate				
Full time	0			
Part-time	0			

District of Oregon				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	3,066	3,256	6.2%	543
Terminations	2,956	3,069	3.8%	512
Pending	2,498	2,685	7.5%	448
Bankruptcy Court				
Filings	18,168	18,227	0.3%	2,604
Terminations	19,249	18,374	-4.5%	2,625
Pending	13,692	13,545	-1.1%	1,935
Authorized Judgeships				
District	6			
Senior	6			
Bankruptcy	7			
Magistrate				
Full time	6			
Part-time	1			

Eastern District of Washington				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	972	1,226	26.1%	307
Terminations	974	1,085	11.4%	271
Pending	727	868	19.4%	217
Bankruptcy Court				
Filings	7,823	8,376	7.1%	2,792
Terminations	7,245	7,507	3.6%	2,502
Pending	5,870	6,739	14.8%	2,246
Authorized Judgeships				
District	4			
Senior	2			
Bankruptcy	3			
Magistrate				
Full time	2			
Part-time	0			

Western District of Washington				
Caseload Measure	Calendar Year		Change 1999-2000	Per Judgeship Unweighted 2000
	1999	2000		
District Court				
Filings	4,033	4,294	6.5%	613
Terminations	3,852	4,092	6.2%	585
Pending	2,799	3,001	7.2%	429
Bankruptcy Court				
Filings	23,818	22,755	-4.5%	4,551
Terminations	24,641	23,006	-6.6%	4,601
Pending	18,015	17,764	-1.4%	3,553
Authorized Judgeships				
District	7			
Senior	5			
Bankruptcy	5			
Magistrate				
Full time	4			
Part-time	2			

